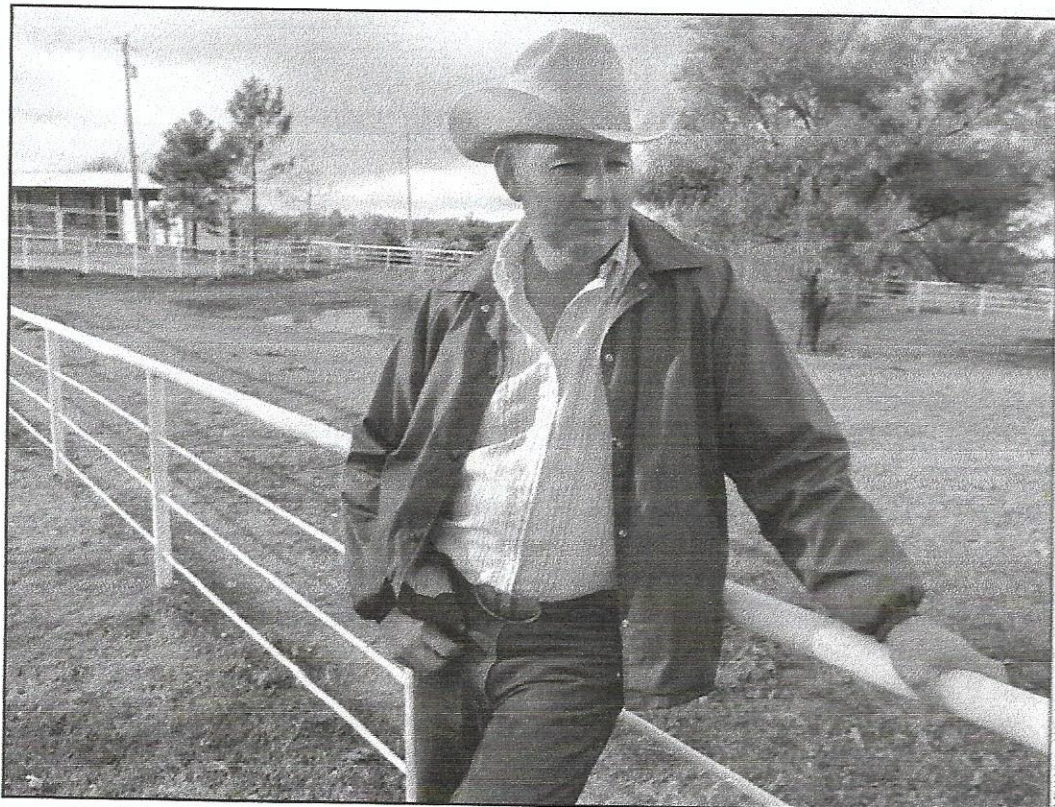


New Charges of OKC Cover-up

A dismissed grand juror has spoken up about federal interference



Heidelberg accused federal government of hampering grand jury investigation.

A dismissed federal grand juror has accused federal prosecutors of cover-up in the investigation of the Oklahoma City bombing, claiming that an effort was made by the prosecution to conceal the identity of the elusive "John Doe No. 2" suspect. In a letter dated October 24th, U.S. District Judge David L. Russell dismissed Hoppy Eric Heidelberg from the federal grand jury and warned him, "Your obligation of secrecy continues. Any disclosure of matters that occurred before the grand jury constitutes a contempt of court."

Heidelberg, a prominent thoroughbred horse breeder from Blanchard, Oklahoma, objected. In an interview that appeared in *The Daily Oklahoman* on October 27th, he said, "You don't fire a man for trying to do his job. You fire him for not doing his job. This is the exact opposite of what needs to be done...."

Heidelberg's whistleblowing first

came to light a couple weeks before his dismissal with an article in the November issue of *Media Bypass* magazine. The article quoted an unnamed grand juror (Heidelberg) as claiming prosecutorial misconduct during the inquest that resulted in the August 10th indictments of Timothy McVeigh, Terry Nichols, and Michael Fortier in the deadliest terrorist attack in U.S. history. Transcripts of the taped telephone conversations between the juror and *Media Bypass* reporter Lawrence Myers were provided by the magazine to McVeigh's defense team, which in turn released excerpts of the transcripts in a pleading filed on October 13th. Contending that "grand jury secrecy was repeatedly breached, that outside influences corrupted the process, and that the independence of the grand jury was destroyed," McVeigh's attorneys demanded an evidentiary hearing and called for the indictments to be dropped.

Protecting Suspects

Legal experts consulted by THE NEW AMERICAN were divided as to the probability of a court accepting the defense's arguments that the indictments are fatally flawed, but all agreed that a court ruling against the prosecution would not prevent another grand jury from indicting the defendants. As for Heidelberg, he has repeatedly stated that he believes the indictments are valid and that the prosecution proved its case against McVeigh and Nichols. His objections stem mainly from what he believes are attempts by the prosecution to limit the indictments to McVeigh and Nichols.

Heidelberg complained about these concerns in a letter he sent to Judge Russell in early October. "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 II," he wrote.

In the transcripts released by the defense team, the anonymous juror (Heidelberg) was even more explicit about his concerns of a government cover-up. Regarding John Doe No. 2, the subject of one of the most massive manhunts in history, he is quoted as saying, "John Doe 2 is the \$64,000 question all the way around.... He's the only person ... that is obviously significant that was ignored. He's obviously significant." Heidelberg reportedly stated, "I'm satisfied that I know the government knows who he is."

Even more startling, however, is the following statement made by the then-grand juror to Myers: "Well, he was either a government agent or government informant. Either way ... they had prior knowledge to the bombing, and that's

what they can't afford ... to have come out."

As reported in *THE NEW AMERICAN* of September 4th ("Searching for John Doe No. 2") and October 16th ("Startling OKC Developments"), since mid-June the Justice Department has been sending intentionally confusing signals about John Doe No. 2, simultaneously indicating both that it is still pursuing the fugitive and that he may have been a false lead from the beginning. An apparent Justice Department disinformation ploy that has been replayed repeatedly in much of the media has it that the now-famous John Doe No. 2 composite drawings were the result of "misidentification and confusion" on the part of the Ryder employees who rented a truck to McVeigh.

But the story that the "most wanted" John Doe was actually an innocent Army private, Todd Bunting from Ft. Riley, Kansas who had also rented a Ryder truck from the same store and had been mistakenly associated with McVeigh, didn't fly with some members of the grand jury. According to Heidelberg, he was not the only member of the grand jury who found the tale incredible. He said it was "stupid to dream up that thing, but it just didn't hold water long at all ... it was a boat with a hole in the bottom...."

"It was a bombshell in my opinion," said Heidelberg. "That's what ... got my attention. They went to a hell of a lot of trouble to try and make John Doe No. 2 go away." The obviously bogus story was also a bombshell to a great many other observers who were not privy to all of the evidence and testimony presented to the grand jury, but who had intelligently followed the investigation.

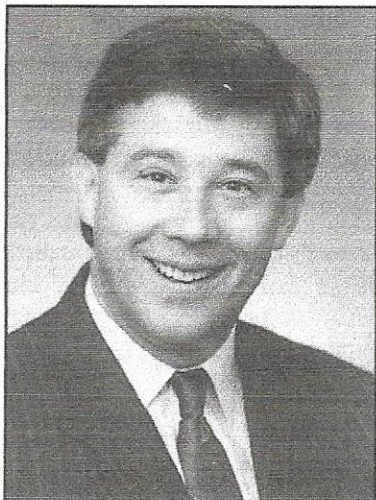
Obstructing and Intimidating

According to the tape transcripts, Heidelberg accused the federal prosecu-

tors of stymieing jury requests to subpoena witnesses, thwarting attempts of jurors to ask questions of witnesses, and engaging in "intimidation." If members of the jury had questions for any witness, the witness was sent out of the room and the jurors were then required to ask their question of the prosecutor,

who would fetch the witness and ask the question in his own words.

Heidelberg told *THE NEW AMERICAN* that the prosecutor would usually let it be known by his body language, fa-



Charles Key (I) petitioned for a county grand jury investigation. He was joined by Kathy and Glen Wilburn, who lost two grandchildren in the bombing.



cial expressions, and tone of voice that the jurors' questions were "unwelcome." In one instance, FBI agents were sent to Heidelberg's home to confiscate his juror notes. Another time, when he returned from lunch to the locked jury room, he found his notes were "missing." The only ones with access to the room were the federal prosecutors.

According to some of the legal experts we contacted, these allegations, if true, constitute serious misconduct by the prosecution. The function of the grand jury, Professor Randall Coyne of the University of Oklahoma College of Law reminded us, "is that of a buffer between the government and the people.

The prosecutor's role is to provide a guiding hand to the grand jury, not a steel fist that forces the jurors to do the prosecution's will. It's part of our system of checks and balances."

Traditionally, Coyne pointed out, grand juries have been accorded "considerable powers and wide latitude to subpoena, investigate, and question." While not familiar with all of the particulars of Heidelberg's allegations, Coyne opined, "If it is true that the prosecution deliberately thwarted legitimate inquiry by the grand jury into the matters before them, then that's a serious charge."

Professor David Miller of the McGeorge School of Law in Sacramento, California concurred.

"Certainly the tradition of the grand jury has been as an independent body, the primary purpose of which is to function as a protection against an overzealous prosecutor and abuse of power by the executive branch," he told *THE NEW AMERICAN*. Miller, a former federal prosecutor, says, "Regrettably, both prosecutors and grand jurors have lost sight of this function of the grand jury, and where the jurors are not properly instructed by the judge and are unaware of their responsibilities and powers, they can be overawed

and intimidated by an aggressive, professional prosecutor."

Conscientious Challenge

In spite of Judge Russell's threat of prison and fines, Heidelberg has continued to speak out. However, in the interest of avoiding unnecessary contempt of court charges, he has been forced to greatly limit his discussion of matters pertaining to the grand jury. When asked by Forrest Sawyer of ABC's *Good Morning, America* what it was that he was concerned about, he replied, "I just want to know who all was involved. I'm not satisfied that the two people indicted were all the people who

were involved." Sawyer asked if the grand jury had not been allowed to investigate "in a proper fashion?" "Well," he answered, "it's my impression that that's what a grand jury investigation is — an investigation — and in an investigation, by definition, you don't know your destination, it's just whatever you discover, and we didn't discover much."

Regarding Heidelberg's concern over the John Doe No. 2 cover-up, Sawyer added more brush to the Todd Bunting camouflage, commenting that "the FBI has said that they believe that's an innocent serviceman." Asked if he were concerned about possible contempt of court charges, he responded, "Well, certainly, I mean, I'd be foolish if I weren't concerned. But sometimes there's a price that has to be paid to get at the truth."

Heidelberg appears to be willing to pay the price, but is what he's after really the "truth," or just his own pet obsession, as some allege? Fair question. Patrick Briley, an Oklahoma City investigator who has turned up many important witnesses and leads in this case and who puts considerable stock in Heidelberg's credibility, informed THE NEW AMERICAN that a conscious campaign appears to be underway in some media organizations to portray Heidelberg as a "paranoid, anti-government, right-wing extremist." Our investigation has turned up no evidence to support those characterizations. In fact, quite the opposite; he appears to be a very credible, well-respected, civic-minded member of the community.

As owner of the Oklahoma Stallion Station and as a founder of, and the current president of, the Oklahoma Thoroughbred Breeders Association, Hoppy Heidelberg is well known in this cowboy state. Charles Wooden, executive director of the Oklahoma Horseman's Association, is but one of many who speak of Heidelberg with the highest praise. "I have found Hoppy to be a person who is strong in his convictions. Some may consider that a liability, but I consider it an asset," he told THE NEW AMERICAN. "I have always found Hoppy to be honest, forthright, outspoken, and frank.... He's not one to be impressed with one's position, fame, or wealth; the guy who sweeps the barn is as important to him as the bigshots who own the racetrack."

Professor Coyne, who does not know the former "disgruntled" juror person-

ally, takes issue with those who are too ready to dismiss the man as an "eccentric" or a "troublemaker." "I don't see Mr. Heidelberg as a troublemaker or a wacko; from what I've seen he appears to be a rational man and a conscientious citizen [who is] trying to carry out his sworn duty."

State Effort

Even though he has been dismissed as a juror, Heidelberg may yet see a grand jury carry out the kind of thorough investigation he had hoped to participate in. Two days after Heidelberg was booted off the federal grand jury, Oklahoma State Representative Charles Key announced the formal initiation of a petition process to convene a county grand jury. The process requires the gathering of 1,000 valid signatures of Oklahoma County voters in a 45-day period. "We are confident that we will obtain the required signatures well short of that time," Key told THE NEW AMERICAN. Key has strongly advocated a state investigation of the bombing and was the target of attacks by Governor Keating and others for his earlier proposals in the legislature to that effect.

In his press statement on October 26th to launch the grand jury petition, Key did not mince words:

Since the beginning of my own investigation into the April 19th tragedy, I have been warned, even ridiculed, for taking an activist approach. The good-ole-boys think I should have turned my back and looked the other way. And certainly, there are many among us who owe their business and political longevity to the blinders they put on every day. In fact, you can even make it all the way to our state's highest office and still be blind as a bat.

Representative Key warned that "criminal obstruction of justice charges could be levied against any person or persons who have destroyed documents related to this mass murder investigation, as well as those who have tried to, in any way, impede the bombing investigation." If and when the county grand jury is convened it will surely subpoena witnesses and evidence that were not brought forward by the federal grand jury, including the many credible wit-

nesses who have produced compelling testimony on the identity of John Doe No. 2.

Grave Charges

Joining Key at the grand jury petition press conference was Glenn Wilburn, grandfather of Chase and Colton Smith, two toddlers who were killed in the Murrah Federal Building blast. "Since April 19th," Wilburn stated, "I have observed the most obvious and blatant attempt by the justice system, specifically the U.S. Attorney's office and the Federal Bureau of Investigation, to deceive not only the public but the grand jurors as to the truth of the events and perpetrators regarding the bombing."

"The first and perhaps most important aspect" of the bombing, Wilburn asserted, pertains to the "prior knowledge of the ATF and the FBI as to the high degree of danger that existed that day." That danger, he charged "was amplified by the 'sting' operation conducted unsuccessfully the night before. Lester Martz, Special Agent in Charge of the Dallas ATF office, has confirmed the existence of a 'sting' operation that night."

Moreover, said Wilburn, "We have witnesses that confirm that a bomb squad was working the Murrah Building and the federal courthouse building between 7:00 a.m. and 8:30 a.m." on the morning of April 19th, a half hour to an hour-and-a-half before the explosion. In addition, "Fire Department personnel have confirmed for us that they were warned on the Friday before the bombing 'of a possible terrorist act.' We now have learned from Chief Hansen that all communications tapes have been destroyed from that Friday before the bombing through the morning of the bombing."

THE NEW AMERICAN has been checking into Wilburn's accusations. They are grave charges indeed, and could mean that very serious criminal charges could be brought against various public officials if proven true. Wilburn has shared a considerable amount of evidence and witnesses with THE NEW AMERICAN which appear to substantiate his statements. We are continuing to evaluate additional corroborative evidence and witnesses and are encouraged by sources close to the official investigation who confirm that we are on the right track. ■