

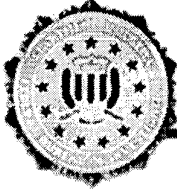
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**U.S. Department of Justice
Federal Bureau of Investigation**

**For Immediate Release
May 11, 2001**

**Washington, D.C.
FBI National Press Office**

Statement of Special Agent in Charge Danny Defenbaugh Regarding OKBOMB Documents

The investigation into the April 19, 1995 bombing of the Alfred P. Murrah Building, referred to as "OKBOMB", was one of the most labor intensive efforts in FBI history. This investigation produced millions of records, including 23,290 pieces of evidence, over 238,000 photographs, and in excess of 28,000 interviews.

The OKBOMB Task Force and Director Freeh requested all FBI offices to forward items and documentation relating to the investigation to the Task Force. On numerous occasions, commencing in the fall of 1995, we sought and obtained numerous assurances from FBI field offices and legal attaches that diligent searches for documents had taken place and that all matters relating to the investigation had been made available for inclusion in the discovery process.

In December of 2000, the FBI initiated procedures to ensure that all OKBOMB investigative records were appropriately archived. Over the course of the last several months, the FBI exercised due diligence to ensure that all records created as a result of the investigation were logged into and compared with each of 26 data bases which serve as a repository for information. During this process it was determined that some of the materials from various FBI field offices were not a part of the investigative database. Moreover, this was the first time the OKBOMB task force had seen these materials, and none were used in the Government's case. I informed senior FBI officials at Headquarters for the first time on Tuesday, May 8, 2001 that the archiving process had turned up these materials.

These materials included results of interviews, notes, and transmittal envelopes which contain physical items.

The FBI is working closely with the prosecutors and the Justice Department to carefully review each item. The materials have been provided to the defense attorneys, who are also reviewing each of the items to ensure that there is nothing that bears on the convictions or sentences of Timothy McVeigh or

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I have been advised that the Attorney General has ordered an immediate inquiry into this matter by the Department of Justice's Office of the Inspector General.

May 16, 2001

Prepared Statement of
Director Louis J. Freeh
Federal Bureau of Investigation

before the

House Appropriations Committee
Washington, D.C.

As you know, the FBI has discovered and announced that documents and other items from FBI files apparently had not been turned over to the prosecutors handling the Oklahoma City bombing cases despite an unusual discovery agreement that called for broader than normal disclosure. Last week, the FBI sent these items to the prosecutors in Denver, who promptly delivered them to the defense attorneys. As Attorney General Ashcroft said Friday, a review of these materials disclosed no new information relative to the guilt or innocence of Timothy McVeigh. The underlying investigation and his guilt remain unchallenged. Never-the-less and regardless of how extraneous these documents are, if they were covered by the discovery agreement, they should have been located and released during discovery. As Director, I have taken responsibility. The buck does stop with me. Therefore, as I will outline, I am today taking a number of steps to address the management aspects inherent in the failures.

By way of background, the FBI'S investigation of the Oklahoma City bombing was a herculean effort of enormous breadth. From the moment the bomb exploded, the FBI devoted every conceivable resource to investigating and solving this act of terrorism. During the course of the investigation, I am confident that we, and the other agencies that assisted us, left no stone unturned. As a result, we collected massive amounts of evidence and reviewed literally a billion pieces of information. To give you a few examples, we:

- Conducted over 28,000 interviews
- Followed more than 43,000 investigative leads
- Generated over 28,000 302s and inserts from interviews
- Reviewed 13.2 million hotel registration records
- Reviewed 3.1 million Ryder Truck rental records
- Reviewed over 682,000 airline reservation records, and
- Collected nearly 3½ tons of evidence

I am proud of our investigators and support teams who, with their colleagues, worked around the clock to solve this terrible crime. The investigation and prosecution of this case was a success story, a significant accomplishment, and it pains me deeply to have the hard work and accomplishments of both investigators and prosecutors overshadowed by the events of recent days. I regret the most that

these events risk diminishing the enormity of their sacrifices and the superb quality of their service to the American people. I also regret the pain this has caused the victims and family members who lost their loved ones.

The FBI committed a serious error by not ensuring that every piece of information was properly accounted for and, when appropriate, provided to the prosecutors so they could fulfill their discovery obligations. Because of the massiveness of this investigation and the implications inherent in being found guilty of such a horrendous crime, McVeigh and his attorneys were given access into government records far beyond what is provided to other defendants, far beyond documents that reflect on guilt or innocence. Once agreed, however, it was our unquestionable obligation to identify every document regardless of where it was generated and regardless of where in our many, many offices it resided. While I have been advised that the newly discovered documents will have no bearing on the convictions or sentences of Timothy McVeigh or [REDACTED] I am not here to minimize our mistake or to make excuses. With respect to these newly discovered documents, it appears that:

- Most offices of the FBI either failed to locate the documents,
- Misinterpreted their instructions and likely produced only those that would be disclosed under normal discovery,
or
- Sent the documents only to have them unaccounted for on the other end.

Any of these cases is unacceptable.

Because of the magnitude of this investigation and the vast amounts of information being gathered, the FBI established a separate command center -- called the OKBOMB command post -- that operated essentially as a separate FBI field office. In the fall of 1995, the command post instituted a special case management and document tracking system which required all investigative materials to be sent to Oklahoma City for entry into a case-specific database. Regardless of where a particular investigative lead was followed -- whether in one of our 56 field offices in the United States or in one of our Legats overseas -- and regardless of the probative value of the information collected, if any, the investigative results were to be sent to the OKBOMB command post for uploading into their system.

There were three principal reasons for this decision to enter all of the data physically in Oklahoma City. First, because the effort was so widespread and massive, the command post wanted to maintain close control over the investigation. By centralizing the evidence and document control, the investigators in Oklahoma City believed they could better ensure that the information was properly entered into the system, maintain the investigation's confidentiality, and more effectively identify and prioritize additional investigative leads. Second, the FBI was converting to a new bureau-wide investigative information system -- called ACS, for Automated Case Support -- and the investigators were uncertain about how this conversion would affect the ongoing investigation. Third, during the first six months of the investigation and because so much information was being generated worldwide, the OKBOMB command post had some difficulty ensuring that all field offices coordinated their investigative materials with the records maintained in Oklahoma City.

Because of the latter, between August of 1995 and November of 1996, eleven separate communications were sent to the field offices requesting that all evidence

be sent to the OKBOMB command post. On November 14, 1996, following a discovery hearing before the court, the command post discovered that certain surveillance logs still resided in a field office -- and not in the OKBOMB command post where they should have been -- and therefore had not been turned over to the defense attorneys during discovery. The following day, November 15, 1996, I sent a strongly worded priority teletype to all field offices and all Legats directing that all investigative materials be sent promptly to the command post, with written confirmation from the office heads.

The command post investigators believed that this directive, combined with the previous requests, had caused all investigative materials, regardless of apparent relevance or value, to be forwarded to the command post and entered into the OKBOMB database. As we now know, there were still many offices that had failed to comply fully or precisely with the instructions given. As a consequence, the items now at issue were apparently never turned over to the prosecutors during the discovery period.

The events that led to the recent disclosure began in February of 2000. Recognizing the historical significance of this investigation and rather than wait the customary 25 years, our Oklahoma City office began the process of collecting OKBOMB records for archiving and preservation. That office sent a communication to our information resources division asking for assistance in storing records and evidence relating to the bombing investigation. The office wanted to ensure that all materials were maintained in excellent condition for future storage in the national archives. Following discussions with the national archives and records administration, the FBI's archivist sent a communication to all field offices on December 20, 2000, setting forth procedures for maintenance and disposition of records relating to the investigation. I understand this process revealed one envelope that was unaccounted for, causing the Oklahoma City office to send a communication to all field offices on January 30, 2001, directing that everything remaining anywhere in the field, no matter what it was, be sent to Oklahoma City so it could be evaluated and prepared for archiving.

Beginning in late January of 2001, the Oklahoma City FBI office began receiving from most of our field offices boxes containing a variety of investigative materials, including witness interviews (on forms known as "302s" and "inserts"). In total, over 100 boxes of materials were forwarded to Oklahoma City during the last several months. Rather than merely storing the material for future accessioning to archives, a group of FBI analysts undertook the arduous process of double-checking everything by manually reviewing every item to ensure that each piece was already included in the OKBOMB database. By early March, an analyst had collected a number of documents that she had not been able to locate in any database. She informed Danny Defenbaugh, the former head of the OKBOMB task force and currently the Special Agent in Charge (SAC) of the Dallas field office, but advised him that further research would be needed to determine whether those documents were in the OKBOMB files. Shortly thereafter, on March 15, 2001, the Oklahoma City office sent another communication to all field offices and Legats requesting another search for all OKBOMB materials and immediate delivery of any items to Oklahoma City.

Following several weeks of additional research, the analysts completed their review and forwarded to SAC Defenbaugh copies of all materials which they were unable to locate in the OKBOMB database. SAC Defenbaugh received copies of the materials on

May 7, 2001, and following an initial review, sent the materials on May 8 to the prosecutor in Denver. That same day, the prosecutor, assistant U.S. Attorney Sean Connelly, orally advised defendant McVeigh's attorneys that the FBI had discovered additional materials. He copied the materials and delivered them to defense counsel on May 9, the same day he received them. I first learned of this matter on May 10.

The materials provided to defense counsel total approximately 3,100 pages and consist of slightly over 700 separate items (many are documents containing several pages). An additional seven items, from our Baltimore field office, were located on Friday and were provided to defense counsel yesterday. The materials came from 46 different field offices and one Legat. (The field offices, and number of pages from each, are listed at the end of AUSA Connelly's May 9, 2001, letter to defense counsel, which the committee members should have.) the majority of the items -- approximately 470 of 709 -- consist of "302s" and "inserts," which were covered by the discovery agreement reached between the prosecutors and defense counsel.

Recognizing the significance of finding anything, however, on Friday evening I ordered a complete shakedown of the FBI, telling each Special Agent in Charge and Assistant Director that I am holding them personally responsible for this last effort. This latest scrubbing has produced a number of additional documents, which are currently being reviewed to determine whether they were covered by the discovery agreement and, if so, whether they had been produced. I understand these documents are of the same character as the others.

We will have to wait for the inspector general to complete his investigation before I have a full explanation of how this happened. Preliminarily, we have determined that there appears to be a number of reasons, no one pervasive. For example:

- Some offices wrongly concluded that the information was so extraneous that it was not covered by the requests related to these prosecutions.
- Some offices forwarded summary results of investigation but not the underlying documents.
- Some offices forwarded copies of originals.
- Some offices turned investigative inserts into 302s and forwarded only the 302s.
- Some offices overlooked material when culling out responsive documents.
- Finally, some offices believe they sent the material but, in some cases, not in a form that could be uploaded into our existing system.

I would like to note that there was an unusually broad discovery agreement in this case. Under ordinary rules of criminal procedure, the vast majority of these items would not have had to be turned over to the defense, as I understand it. Because of the extraordinary breadth of this investigation and the large number of interviews (over 28,000), the prosecutors and the FBI agreed to make available to the defense every interview report, regardless of whether the interview was material to the defense or extraneous to the core investigation.

There is a protective order in this case that prevents me -- at this time -- from discussing in any detail the substance of the materials at issue. However, I can say that I have no reason to believe that anything in the materials bears upon the convictions or sentences of Timothy McVeigh or

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Several lawyers and agents from the justice department and the FBI conducted a page-by-page review of the material. Nothing in the documents raises any doubt about the guilt of McVeigh and [redacted]. In fact, many of the documents relate to early leads that developed no useful evidence or information of investigative value. For example, a number are reports of interviews of witnesses who thought they had seen or had information about John Doe #2 and, to a lesser extent, John Doe #1. These include persons who had seen composite sketches and thought they recognized them and the subsequent interviews of the people that were named as possibly John Doe #1 or #2. Other documents relate to other early investigative steps that never produced anything of value, unsolicited tips proven wrong, people volunteering public source information, etc.

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Although I fully support the Attorney General's decision to postpone Mr. McVeigh's execution -- fairness and justice demanded it -- I do not believe this belated disclosure of documents will affect the outcome.

In the end, I have no indication that anyone intentionally withheld anything. To do so would result in swift and severe punishment and possible prosecution. To the contrary, it still appears that all Brady or other material reflecting on guilt or innocence was disclosed during discovery. In fact, while the timing can be rightfully criticized, our employees did exactly what they should have done in these circumstances because, regardless of the embarrassment, they brought this to light. Not the easiest course but the right one.

The issue in the end is what can be done to address what regrettably has become a recurring problem. After close examination, I am in agreement with those who have identified the bottom line as one of a management problem. We simply have too little management attention focused on what has become, over time, a monumental task.

The FBI maintains over six billion pages of paper records and a similar number of automated records. It is a mountain growing bigger with each passing day. We are investigators focused on preventing terrorism and solving the most sophisticated crimes. Perhaps that is why the seemingly mundane tasks of proper records creation, maintenance, dissemination and retrieval have not received the appropriate level of senior management attention. We have expended considerable resources to ingrain in our employees core values and ethics. We have trained them in cutting-edge techniques in the cyber world. The dizzying pace of the evolution of crime, terrorism and technology, I believe, has caused us to lessen our focus on a function so basic that perhaps we have taken it for granted. Not any more.

In every instance when significant problems have arisen, it has boiled down to the need for more and better management. When our laboratory faltered, I brought in a world class scientist to run the operation. It is now the best it has ever been.

With our automation infrastructure failing, I brought in a world class computer executive to fix the problem. With Congress' help, that is being solved.

When Waco and Ruby Ridge demonstrated the need for better crisis management, I put a senior executive in charge of that redesigned function and it has been exceedingly successful ever since.

This is no different. Today I am announcing the following:

- I have instructed my Deputy, Tom Pickard, to form a search committee and hire a world class records expert, a senior official who will be dedicated to this issue and this issue alone. This person will "own the problem."
- I have instructed that a separate office of records management and policy be established and will soon be seeking the required authorizations. This is a core function that deserves the full and constant attention of the entire FBI.
- I have instructed this morning that every employee in the FBI immediately receive a block of instruction on every aspect of our existing records policies. These policies are good when followed but they were not followed here. Under the crush of everyday business, I suspect that many have forgotten some of what is learned in basic agents' training.
- I have instructed that additional training be provided to all new employees, especially new agents, and that records training be included as required annual training just as ethics, EEO and other important subjects are.
- I have instructed that the Trilogy Automation Plan be modified to include sophisticated document handling accountability and auditing functions to support enhanced line supervision of these issues.
- I have instructed that required agent file review sessions include a specific focus on these issues.
- When I became Director, I established certain "bright line" rules regarding conduct. These rules, strictly enforced, quickly had the desired effect. I have instructed the same be done here. In retrospect, the proper creation, filing and dissemination of our investigative records is as important to ensuring the rights of those whom we investigate as compliance with other constitutional and procedural requirements. Every employee must understand that and there must be consequences for falling short.
- Finally, I have instructed that the FBI stand-down for a day to begin implementation of these initiatives and, more importantly, to ensure that every employee understands the importance of what must be done.

We can and are fixing the automation aspects of this issue. We are down to management and human behavior. I believe that these immediate steps alone, in addition to recommendations from the inspector general, will get us where we need to be. We simply cannot allow the dazzle of technology and the complexity and breadth of our mission to dim the focus on a function that goes to the very core of what we do. In short, this episode demonstrated that the mundane must be done as well as the spectacular. I believe these steps will ensure it to be so.

EXECUTIVE SUMMARY

The bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, on April 19, 1995, was, at the time, the most significant act

of terrorism that had ever taken place in the United States. Government agencies, led by the Federal Bureau of Investigation (FBI), immediately began an extensive investigation to identify and prosecute the culprits.

The

investigation, known as OKBOMB, was run by a Task Force that consisted

primarily of FBI investigators and support personnel and Department of Justice prosecutors. Within a few months, three individuals – Timothy McVeigh, [REDACTED] – were indicted for crimes relating to the bombing. McVeigh and [REDACTED] were convicted after trials, and [REDACTED] pled guilty as part of a plea agreement with the government.

McVeigh, who had devised the plot to bomb the Murrah Building and had planted the bomb, was sentenced to death.

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On May 8, 2001, one week before McVeigh's scheduled execution date, the Department of Justice and the FBI revealed to McVeigh's and

[REDACTED] attorneys that over 700 investigative documents had not been disclosed to the defendants before their trials. The government acknowledged that it had violated a discovery order in the case, and the Attorney General stayed McVeigh's execution for one month in order to resolve the legal issues arising from the belated disclosure.

Following the public revelation of the problem, and after finding and releasing more than 300 additional OKBOMB documents to the defense, the

FBI came under severe criticism for its handling of the OKBOMB documents. Allegations were made that FBI personnel intentionally failed to

disclose exculpatory information to the defense.

When the problem of the belated documents was first disclosed, the Attorney General requested that the Office of the Inspector General (OIG) investigate the circumstances leading to the untimely production. This report details the results of the OIG's investigation.

I. The OIG Investigation, Scope of the Report, and Conclusions

To conduct the investigation the OIG assembled a team of five

attorneys, two special agents, two auditors, a paralegal, and support personnel. We conducted approximately 200 interviews of current and former FBI and Department of Justice officials. OIG investigators traveled to 13 FBI field offices to conduct interviews, view the physical premises,

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