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978-0-521-87264-5 - Patriots, Politics, and the Oklahoma City Bombing

Stuart A. Wright

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I first met Timothy McVeigh in the federal correctional facility in El Reno, Oklahoma, in November 1995, about seven months after the Oklahoma City bombing. The lead attorney for McVeigh's defense team, Stephen Jones, phoned me in early September after reading a book I published on the Branch Davidian tragedy that same year. I surmised that he had purchased a copy of the book in Kansas City and read it on the plane while flying back to Oklahoma City the day before. Jones wanted to gain a better understanding of the Waco incident because the government was claiming that McVeigh engineered the bombing of the Alfred P. Murrah Building in retaliation for the federal assault on the Branch Davidians two years earlier. Initially, I had some reservations about taking on any kind of role that would cast me as an apologist for the alleged perpetrator of such a heinous crime. A few weeks after my telephone conversation with Jones, one of the attorneys assigned to the case, Dick Burr, a death penalty specialist, drove over from Houston, and we met for about an hour in my office. I remember thinking he was dressed very casually for an attorney: He showed up wearing an old pair of corduroys and a shirt badly in need of ironing, and his hair was uncombed. But he had a demeanor that was disarming and genuine. As I later learned, Dick Burr was a '60s political activist and labor organizer before attending law school at Vanderbilt. We hit it off from the start, sharing similar political views and common interests. He told me that his involvement in capital punishment cases developed after taking his first case in 1979. After that, he said, he decided to specialize in death penalty practice, largely because of his personal opposition to capital punishment. I was aware of the difficulty in this area of legal specialization: Attorneys lose about 90 percent of their cases. This one had an even smaller chance to succeed. Nonetheless, I felt comfortable after my meeting with Dick Burr

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and tentatively agreed to become involved in the case as a consultant. I think my fascination with the case outweighed any reservations. After all, I told myself, Timothy McVeigh was entitled to his Sixth Amendment right to defense counsel. Jones and Burr were appointed by the court as public defenders to represent McVeigh. In a curious twist of irony, I would find myself in the employ of the federal government.

Like many other Americans, I was disturbed by the government's handling of the Branch Davidian siege and standoff, not to mention the evasive machinations by partisan politicians in the House hearings on Waco in 1995. I had testified in the congressional hearings that year, and I was still bothered by the government's lack of accountability. I published an edited volume on the incident, *Armageddon in Waco* (Wright, 1995a), which pulled together nineteen scholars from various fields of study, including sociology, law, history, and religion. The book was very critical of the Waco debacle, and that gave us some common ground. I was confident that I could help the defense team piece together a poorly understood tragedy by the general public. The opportunity to serve in a consultant's capacity also meant that I could devote more time to study new documents and reports that were not available earlier. I also welcomed the chance to meet with McVeigh because it would give me an insider's look at this historic legal case, and I was already planning to write another book about the emergence of the militant right.

My first meeting with McVeigh, on November 29, 1995, was preceded by a half-day conference with key members of the defense. I recall that it was bitterly cold in Oklahoma at that time. Dick Burr and I had flown to Oklahoma City the day before and then driven to Enid in preparation for a meeting with Stephen Jones and another defense attorney, Rob Nigh, the next morning. I didn't know it at the time, but Rob would later take over the lead in the appeals process following the criminal trial. The meeting was very instructive as I got my first glimpse of Stephen Jones. Stephen was a puzzling sort. He was a lifelong conservative Republican, but with libertarian leanings. In the mid-sixties, he worked on Richard Nixon's legal staff in New York as a researcher, and he talked openly of his admiration for the former president, much to my chagrin. Richard Nixon hardly evoked fond memories for my generation. But there was another side to Stephen. He had also taken several unpopular civil liberties cases during the sixties. He once represented a dissident college student who had been arrested for carrying a Vietcong flag into an ROTC gathering at the University of Oklahoma. Jones's insistence on representing the student cost him his position with an Enid law firm. He also represented Abbie Hoffman when Oklahoma State

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University refused to let the political activist speak on campus. No doubt the civil liberties cases came back to haunt Jones. He ran for public office four times in Oklahoma, all resulting in defeats, including an unsuccessful run for the U.S. Senate. Nonetheless, by most standards, he had achieved a distinguished practice in law. The walls in his office were embellished with photographs of Jones with prominent national and international political figures. Despite characterizations of him as a “country lawyer” (which he didn’t disavow), Stephen Jones was a forceful, intense, and charismatic individual who liked to be in control. He had an exceptional wit and a dry sense of humor that helped to cut the tension in lengthy meetings where the gravity of the task weighed heavily on everyone. There was a lot of verbal sparring, usually initiated by Jones. He was fond of bashing “liberals,” a ritual that provoked considerable bantering and repartée. But he was always courteous, professional, and appreciative of my work on Waco. I looked forward to working with him, ideological differences notwithstanding.

The meeting moved along rapidly that morning, and we broke for lunch around noon. Dick, Rob, and I grabbed a sandwich at the café on the first floor of the East Broadway office building. While we ate, the attorneys traded assessments of McVeigh and talked about legal strategies in building a defense. After lunch, Dick and I drove from Enid to the small town of El Reno.

The federal prison in El Reno is a venerable, intimidating, fortresslike structure, probably built in the 1930s. It looked like something out of an old Edward G. Robinson movie. McVeigh was being held in maximum security, and the procedures involved in the visit were elaborate and painstaking. After clearing security, we were escorted down a long corridor through several sets of double doors, each locked and heavily fortified. As we approached the third set of doors, two armed guards met us. McVeigh was being held in an isolated cell. We were ushered into a small room containing a table and two chairs while the guards retrieved their most famous prisoner. In the days leading up to this encounter, I wasn’t quite sure what to expect; I had only seen brief clips of McVeigh on the news. Meeting him face to face would allow me to form my own opinion rather than try to muddle through the endless speculations of broadcast journalists and hastily compiled news reports. In truth, the public didn’t know very much about this young man at all, though that would change over the next few years. After a few minutes, McVeigh was escorted into the room by a prison guard, and we were introduced. McVeigh had become aware of me through my book, which I learned he had read cover to cover. He said that he had a lot of time to

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read, revealing a slight grin as he spoke. My first impressions of the accused bomber put me at ease. McVeigh didn't strike me as a "terrorist." He was soft-spoken, friendly, and inquisitive, with a boyish quality that defied the stereotypical image of an embittered radical. In fact, he didn't seem all that different from thousands of students I have had in the classroom over the years. During the initial meeting, which lasted about four hours, I found him to be articulate, demonstrating above-average reasoning and analytical skills. He expounded on portions of my book, indicating good comprehension of complex issues. While he had only attended college for a semester, he appeared to be a bright young man. He was introspective and curious – good qualities to have as a student. As likeable as he was, though, I had to make a concerted effort to remind myself that he was accused of what the press liked to say was "the worst act of domestic terrorism ever on American soil."

To my dismay, McVeigh talked openly of his role in the Oklahoma City bombing. He was willing, even eager, to discuss the evolution of his thinking and the series of events leading up to that dreadful day. I can say this now, because McVeigh's public confession to two Buffalo news journalists in the months before his execution essentially voided the confidentiality agreement to which I was bound. I was asked to sign an attorney–client privilege statement agreeing not to divulge any information that I learned in my capacity as a consultant. I intended to honor that agreement in the writing of this book. But six years later, it became moot. Much of what appears in the book *American Terrorist*, by Lou Michel and Dan Herbeck, was also told to me during the time I got to know McVeigh, save the sundry details of his childhood and adolescence.

McVeigh was a true believer, in his mind a combatant in the resistance movement or underground army battling the New World Order, a global conspiracy by wealthy elites designed to subjugate the United States and other nations under the control of the United Nations. He was a self-made patriot and freedom fighter, defending his country against the alleged forces of tyranny and treason. McVeigh likened his mission to blow up the Murrah Building to a special-operations assignment. The challenge of this stealth mission was both formidable and dangerous, requiring undaunted self-discipline, efficiency, and skill. He was steeled to the task and said that he expected to be caught in an FBI manhunt and die in a shootout with federal agents, a fate that befell several other patriots before him, including Robert Mathews and Gordon Kahl. McVeigh believed that his mission was successfully completed – a *fait accompli*. In his mind, he inflicted a lethal blow on the enemy and sent a message that the Patriot underground, however

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small in number, would not stand silently by while, as he put it, “a war was waged by the government against its own people.”

The Oklahoma City bombing was first and foremost an act of retaliation for the 1993 federal assault on the Branch Davidian settlement at Mt. Carmel outside Waco. But there were other factors as well, such as the federal standoff with Randy Weaver in Ruby Ridge, Idaho, and the passage of tighter gun laws. As we will discover, McVeigh saw all these forces as part of a single conspiracy leading to an inevitable outcome. McVeigh believed that the siege at Waco was a *military* operation carried out illegally against American citizens. The charges of weapons violations made in the affidavit accompanying the search-and-arrest warrant for David Koresh signified, in his eyes, an expanding campaign of disarmament by the federal government. The resistance of the Davidians to the federal siege was justified, McVeigh believed, and it proved how far the government was willing to go to achieve its objective. McVeigh was enraged by the events at Waco, and he spoke with great passion and intensity in condemning the government raid and standoff. While not condoning McVeigh's actions, I understood the “insurgent consciousness” (McAdam, 1982) that he displayed. But I was confounded by some of his choices in the planning of the bombing. Why blow up the building during the daytime, when all those people were there, I asked. What purpose did that serve? The bulk of victims were not federal agents, but rather were clerical staff and office workers with no direct responsibility or culpability. Why not wait until evening and destroy the building when it was unoccupied? That way, you could make an effective political statement, if you were so inclined, without the mass deaths and injuries. His answer stunned me: “Because in order to really get the attention of the government,” he said, “there has to be a *body count*.” He said it so matter-of-factly, it took me a moment to process the statement. “A body count?” I replied. “Yes,” he insisted. He then explained to me that the government could easily sweep under the rug the destruction of a building. Replacing a building was just “a temporary inconvenience.” On the other hand, the deaths of government workers inside the federal building, particularly their own agents, could not be ignored. McVeigh's explanation had a certain martial logic, allowing for the presumption that he was in a “war.” But the statement about the body count chilled me. I have never forgotten it. I would later learn, however, that neither the idea of bombing the Murrah Building nor the “body count” statement originated with McVeigh. They could be traced to James Ellison, the founder and leader of the Covenant, Sword and Arm of the Lord (CSA), part of the vanguard of

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the Patriot movement in Arkansas, eleven years earlier. (I will have more to say about this later.)

By the time of this first meeting, everyone in the country was aware of the details of the Oklahoma City bombing. The deadly blast was caused by a homemade bomb using a mixture of ammonium nitrate and nitromethane fuel contained in 55-gallon drums resting in the back of a Ryder rental truck. The truck was parked in front of the Alfred P. Murrah Federal Building on the morning of April 19, 1995, the second anniversary of the fatal FBI assault on the Branch Davidian sect that killed seventy-six people, including twenty-one children. The Oklahoma City bombing killed 168 people, including 19 children, and injured more than 500 others. The outrageous act of violence shocked the nation and became headline news for months. In the immediate aftermath of the incident, many observers speculated that the bombing was an act of foreign terrorists. Truck bombs had been used in Mideast terrorist attacks in the past and were the method deployed in the World Trade Center bombing only two years earlier. But within a few days of the bombing, federal authorities announced that the alleged perpetrator was not a foreign enemy, but a “domestic terrorist.”

Only an hour and fifteen minutes after the bombing, Oklahoma state trooper Charles Hanger pulled over the accused about seventy-five miles north of Oklahoma City on Interstate 35 for not having a license plate on his yellow Mercury Marquis. The officer found a loaded weapon in the car and booked McVeigh on a gun violation and took him to the local courthouse in Perry, Oklahoma, where he was detained for a routine procedure. A check of his criminal record alerted the FBI, which soon determined that McVeigh matched the description of the bombing suspect. Federal agents tracked the identification number on the axle of the Ryder truck to a Kansas rental facility where McVeigh had obtained the truck. The FBI arrested McVeigh in Oklahoma. He was found to have a pair of earplugs in his possession. In the car, which was searched two days after it was impounded following McVeigh’s arrest, police found an envelope full of antigovernment literature. Among the papers stuffed in an envelope was a page from the popular far-right novel *The Turner Diaries*, with a passage about government bureaucrats that stated, “We can still find them and kill them.” The sealed envelope was labeled with a handwritten message: “Obey the Constitution of the United States and we won’t shoot you.” Inside the envelope also were quotations from Samuel Adams and John Locke about the dangers of overzealous governments. The circumstantial evidence was incriminating, and the federal agents believed they had their man. The searing visual image

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of McVeigh in handcuffs, exiting the Noble County jail accompanied by FBI agents, wearing prison orange and facing the angry threats and jeers of a hostile crowd was splashed across every television screen in the United States and is one that most people will always remember. The revelation was doubly shocking. The alleged bomber was one of our own: a clean-cut 27-year-old white male with no previous criminal record and a decorated Gulf War veteran. How could this be?

In the following months, the public learned that Timothy McVeigh was a disgruntled ex-soldier who held strong antigovernment views, moved in and among the gun show subculture, visited the scene of the government standoff with the Branch Davidians, and was reportedly angered by the federal government's use of military tactics and weapons against the sect. McVeigh easily recognized the Bradley tanks at Waco – they were identical to the tank he manned as a gunner in Desert Storm. The Waco operation looked all too familiar to him, like a *war* exercise. But this broadside was being waged against American citizens, not Iraqis. When the CS (tear) gas assault erupted in a fiery holocaust on April 19, 1993, McVeigh was visiting brothers Terry and James Nichols at their farm in Decker, Michigan. The three men were horrified as they watched on TV the Davidian settlement burn to the ground. According to federal prosecutors, the men vowed to retaliate. The government charged that McVeigh, along with Terry Nichols, bombed the federal building in Oklahoma City to avenge the siege at Mt. Carmel. McVeigh was charged with an eleven-count indictment; one count of conspiring to use a weapon of mass destruction, one count of using a weapon of mass destruction, one count of destruction by explosives, and eight counts of first-degree murder for the deaths of eight federal agents. McVeigh's defense counsel entered a plea of not guilty. The stage was set for the largest criminal investigation in U.S. history. U.S. District Judge Richard Matsch, an ex-prosecutor appointed to the bench by former President Nixon, was assigned to the case by the Tenth U.S. Circuit Court of Appeals. It is worth noting that Matsch was the same judge who presided over the trial of members of Robert Mathews's group, The Order, who were charged in the slaying of Jewish talk show host Alan Berg in 1985. (The importance of this connection will acquire added meaning in later portions of the book.) Matsch replaced U.S. District Judge Wayne Alley, whose chambers were damaged in the Oklahoma City blast. After vigorously contested requests by defense attorneys for severance and a change of venue, the motions were granted and the trial was moved to Denver. The trial date was set for March 31, 1997.

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As we left the El Reno federal facility that cold November day, I was numb from the hours of intense listening and note taking. I wasn't allowed to record the interview, so I endeavored to write down everything I possibly could at a furious pace. As often happens in such situations, more questions arose than could be answered. I departed with some frustration, knowing I would need to regroup and formulate a new battery of questions. We walked back through the sequence of security checks, thanked the prison officials, and got into Dick's rental car. Dick and I didn't speak much on the drive back to Oklahoma City, but he asked me what I thought of McVeigh. I responded by saying I thought he seemed awfully young to be in this much trouble. I know we talked further about McVeigh's family background and history, his military training, his friendship with Terry Nichols, and other matters, but I was trying to digest what I had learned and to make sense of it all. I had pages full of notes, and I was anxious to get back to the hotel room to organize them in a more manageable fashion. When we arrived back in Enid, Dick dropped me off at the front of the hotel. He had a rented apartment in Enid because he was spending so much time in the city. He said that he would pick me up in the morning and we would drive to the airport. I worked on my notes until about 2 A.M., but despite being exhausted I didn't sleep well that night.

I would make another visit to El Reno the following February for a half-day visit and interview with McVeigh. I had formulated a new list of questions for him that we covered methodically. He was very patient and engaging, often volunteering painstaking details in response to inquiries. There is no doubt that he savored the reprieve from solitary confinement and the company of an empathetic listener. The constant surveillance and strict supervision in the maximum-security unit was starting to wear on him. He complained that prison guards were eavesdropping on his meetings with defense lawyers. On one occasion, he stopped talking after we heard a noise and pointed to the outside wall of the room. He leaned over and whispered to us that the guards were trying to listen in on his conversation. He continued to talk softly to avoid being heard. I dismissed his suspicions out of hand. Ironically, however, four weeks before the case went to trial, incriminating and confidential details about McVeigh's activities leading up to the bombing were leaked to the press.

On March 1, 1997, the *Dallas Morning News* ran a story that essentially documented McVeigh's every move in planning the bombing. ABC and CNN produced news specials based on this damning information, walking the viewer through a detailed chronology of the alleged bomber's actions

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prior to April 19, 1995. Stephen Jones denied the stories were credible and threatened to sue the newspaper. He insisted that the events were fabricated in an attempt to flush out another suspect. But everyone involved with the defense team knew that the information was accurate. Even the statement about the “body count” appeared in the news reports. McVeigh’s paranoia now seemed justified. More troubling, the source of the leak was allegedly a staff person on the defense counsel. The *Dallas Morning News* reporter, Pete Slover, said the story was based on statements made by McVeigh to his defense team between July and December 1995. The period of time covered by the leaked story corresponded to my initial interview with McVeigh. I knew I had not spoken with anyone about these details, but the coincidence was unsettling. It was later discovered that somebody in Jones’s office was responsible for leaking the confidential material. After that, the attorneys took extensive measures to heighten security and protect any further mishaps. I had a personal file of McVeigh’s letters and documents, all of which were photocopied in Jones’s office, for my use in assisting the attorneys in the case. A few weeks after the leak, Dick Burr called me and asked me to return the contents of the file. I took copious notes from the materials over the next few days and returned the files, as requested. The attorneys were visibly shaken by this embarrassing turn of events. It was evident to me that things were not quite the same among the members of the legal team from that time on. A cloud of suspicion enveloped us, and the tensions played out in various ways. At one point during the trial in Denver, for example, I was waiting outside Dick Burr’s office before a meeting perusing the contents of a stack of binders resting on top of a filing cabinet. To my surprise, I was abruptly accused by Dick’s wife and fellow law partner, Mandy Welch, of secretly garnering evidence for the opposition, perhaps to sell or leak to the media – I’m not sure which. It was a surreal episode. Welch was obviously feeling the stress of a high-stakes court battle and was transferring her anxiety by venting at me. I left the building with my research assistant when it became apparent that we were not going to have the meeting.

For nine weeks – between March 31 and June 14, 1997 – the McVeigh trial was the focus of widespread national media attention. The grounds in front of the Denver courthouse were jammed with news crews from major broadcast and print media outlets. Live news coverage was maintained around the clock. News analysts detailed every argument and speculated about the effects on the outcome of the trial. At each break in the trial, journalists descended on prosecutors, witnesses, defense attorneys,

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and experts as they entered or left the courthouse. I attended the trial in early June, sitting with defense counsel in the crowded courtroom in the first row reserved for the legal team. It was a spectacle to behold. Lines formed in front of the building before dawn each day for those wanting to secure a seat for the proceedings. Inside the courtroom, families of the bombing victims and media representatives were the most visible attendees. Prominent news reporters whose faces I recognized – Jeffrey Toobin (ABC), Dick Gregory (NBC), Tim Sullivan (Court TV) – were seated just behind me. The courtroom was quite small, designed to hold only about one hundred people, but the numbers clearly exceeded this figure. The atmosphere was tense and emotionally charged. Everyone in the courtroom was keenly aware of the historic significance of the case. It was like nothing I had ever witnessed.

Some legal experts were predicting that the trial might take six months, given the enormity of the case. But the Denver trial proceeded rapidly. The prosecution called 137 witnesses during a stretch of eighteen days. The government introduced evidence that McVeigh had planned the bombing, had purchased bombing materials, and had traces of an explosive substance, penta erythrite tetra nitrate (PETN), on his T-shirt. With the leaked chronology of McVeigh's movements before the bombing and phone records from a calling card, the government was able to piece together a compelling argument about McVeigh's day-to-day activities. Key pieces of evidence included an axle from the Ryder truck combined with eye-witnesses who rented the vehicle to McVeigh. Government attorneys also called as witnesses Lori and Michael Fortier, friends with whom McVeigh had stayed in Arizona during the planning of the bombing. McVeigh knew Michael Fortier from his Army days, and Fortier shared some of McVeigh's antigovernment beliefs. Fortier was well aware of McVeigh's intentions; he helped store bomb materials and stolen goods and even accompanied McVeigh to Oklahoma City at one point to case the Murrah Building. The Fortiers turned state's evidence in exchange for more lenient sentences. The government agreed not to file charges against Lori and asked the court to consider Michael's cooperation with prosecutors in the sentencing phase.

Prosecutors also called McVeigh's sister, Jennifer. Tim and Jennifer were very close, and he had written to his sister a number of times during his metamorphosis, sending her a copy of *The Turner Diaries*, Patriot newsletters, and other reading materials, often highlighting portions he thought were important. During her trial testimony, Jennifer told the jury that her