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Prologue

This is a book about prosecutorial abuse on steroids that led to five wrongful convictions. Richard Brown, Darlene Edwards, Bryan Sheppard, Frank Sheppard, and Skip Sheppard were convicted in 1997 of causing the deaths of six Kansas City firefighters killed in an arson-fueled explosion on November 29, 1988, at a construction site located near the impoverished Marlborough neighborhood where they lived.

Each was sentenced to life in prison without the possibility of parole.

They were convicted not because any of them were guilty but because the government, after eight misguided years of investigation, wanted to bring closure to the families of the fallen firefighters. They were convicted because they were indigent and powerless before the awesome power of the federal government. They were expendable due to the desultory lives they had led.

When I decided in 2000 to become an advocate for the five convicted, I had no illusions about how difficult it would be to overturn their convictions; once an innocent person is convicted and sentenced and has lost the appeals available, the prison doors are almost impossible to reopen. This is especially true—as it is in the firefighters case—when there is no DNA evidence involved.

Each innocence case is different but behind every one of them is a deeply flawed investigation and prosecution. The higher the profile of the case, the more likely defendants are at risk of being falsely convicted.¹

For Kansas City, this was the highest-profile case in history.

Exonerations make news not only because they are rare but also because they inevitably show an almost total breakdown in the justice system, from the investigation to the prosecution right through the trial to the appeals courts. This breakdown is exactly what caused and keeps in place these wrongful convictions.

The road to exoneration is a protracted one full of delays and pitfalls. Even when evidence of innocence is overwhelming, the government, be it state or federal, in almost all cases stridently opposes claims of innocence.

Meanwhile the innocents languish an average of 8.7 years before some judge finally says they can go home.² For those released based on DNA evidence, the average time in prison is 14 years.³

One factor that encouraged me to step forward was I thought it was obvious who set the arson that killed the firefighters; if I could help bring that to light the government would admit its mistake, free the Marlborough Five, and prosecute the actual perpetrators. I was greatly mistaken about that. The local US Attorney's Office is as invested today in these wrongful convictions as it was when it prosecuted them.

What I never understood was why the investigation did not focus on the security guards. In the afternoon before the explosion, the general contractor informed the mom-and-pop security company it was cutting back its hours by 150 minutes each night. The initial interview a Kansas City homicide detective conducted with guard Debbie Riggs just hours after the firefighters were killed caught her in numerous lies.

Among other things, she concocted a story about seeing two prowlers as the reason she and her brother, Robert Riggs, had left the site unguarded for five or so minutes. During this brief excursion to QuikTrip, her pickup was torched on one side of the site and a construction company pickup torched on the other side right next to where the explosives were stored in a semitrailer.

Instead of the guards, the federal investigation spent six years investigating organized labor's possible role. When that probe dried up, \$50,000 reward posters were placed in every jail and prison in Missouri and Kansas and on overpasses and billboards near Marlborough.

More than 150 leads came pouring in. Not one of these informants, over sixty of them convicts, grouped the five eventually convicted. No two witnesses against any of the defendants testified to the same set of facts. The actual statements of the witnesses name a large number of nondefendants involved in the crime. Most of the informants referred to a wide variety of items stolen from the construction site the night of the explosion despite the fact nothing was ever stolen from the site—that night or any other time.

It did not deter the Alcohol, Tobacco, Firearms, and Explosives (ATF) agent in charge of the investigation that Frank Sheppard and Richard Brown passed police-administered polygraph examinations, or that none of the five ever asked to have an attorney present when questioned numerous times by police or ATF agents, or that none ever invoked the Fifth Amendment right to remain silent, or that each of the defendants turned down the government's offer of a five-year sentence to testify against the others.

At the time of their convictions, I owned and edited an alternative weekly newspaper, the *New Times*. In May, two months after the five were convicted but before they were sentenced in July, we published a two-part, twenty-thousand-word article by J. J. Maloney that forcefully and unequivocally stated the defendants were framed by one super-aggressive ATF agent and railroaded at trial by a combative assistant US attorney and a pro-prosecution judge. Later that year those articles won the Missouri Bar Association's Excellence in Journalism award.⁴

The government's star witness at the grand jury was the stepson of defendant Darlene Edwards. Ronnie Edwards was highly compromised, cooperating with the government to avoid being sent to prison on a parole violation for fraud.

During a six-week trial, the government put on a parade of felon witnesses and thirty-two informants from Marlborough. Many of the Marlborough witnesses had issues with the law themselves and all were aware of the \$50,000 reward money.

Twenty-four convicts or ex-convicts, incentivized by reduced sentences or other enhancements, testified. One convict saw his sentence cut from twenty-five years in prison to one year in jail for his testimony. At least seventeen others received deals for their testimony, including drastic sentence reductions.

At every stop along the way the Marlborough Five have been barred from receiving judicial relief. In 1998 a three-judge panel at the Eighth Circuit Court of Appeals denied their direct appeal; in 1999 the US Supreme Court refused to hear their case; and in 2003 a federal district court judge denied their habeas corpus petition.

By this time, the only way back to court to challenge their convictions was to develop evidence of their innocence so compelling that no jury would have convicted had this evidence been known.

A private investigator and I began attempting to interview witnesses to see if any of them would recant. Over the course of a year, we developed eight affidavits, four of them from trial witnesses, that indicated the ATF agent in charge of the investigation had used coercive, strong-arm tactics to pressure potential witnesses. One trial witness swore in her affidavit that the ATF agent threatened to put her in prison for eighteen months on a contempt charge and have her two-year-old son placed in social services unless she testified to hearing Bryan Sheppard and Richard Brown making admissions of guilt on two occasions.⁵

In June 2005, I took the affidavits to Mike McGraw, an investigative reporter at the *Kansas City Star*. After more than a year of investigating

the firefighters case, McGraw began writing a series of articles that questioned the validity of the convictions, pointed to the guards as possible perpetrators, and exposed the coercive tactics the lead ATF investigator used to compel witnesses to testify falsely.

“Did Pressure Lead to Lies?” was the headline on McGraw’s blockbuster article that ran on the front page, June 29, 2008.⁶ He detailed how fifteen people told him one ATF agent pressured them to perjure themselves. Five who testified admitted they lied to the grand jury or later at trial. The other witnesses said they refused to change their stories even under pressure.

The revelations of witness tampering prompted John F. Wood, the local US attorney, to ask the US Justice Department to conduct an independent investigation.

The Justice Department went into full damage-control mode. In the interim, Skip Sheppard died of cancer in 2009 at age forty-nine.

In 2011, three years after Wood asked for an independent investigation, the then US attorney, Beth Phillips, held a news conference and released a 2½-page report that stated the Justice Department review “did not find any credible support for *The Star’s* allegations.” She did state that the review had uncovered one or more other perpetrators, but those names were kept secret. She took no questions and left the room.

So now on top of these wrongful convictions there is a cover-up.

No grand jury was impaneled to consider indicting these unnamed perpetrators. What does it say to the families of the fallen firefighters that one or more people responsible for killing their loved ones are still free?

It says the government will do whatever it takes to keep the truth of this tragedy buried.

When the US Supreme Court ruled in 2012 that it was a violation of the Eighth Amendment’s prohibition against cruel and unusual punishment to sentence minors—those under eighteen years old—to life without parole, Bryan Sheppard, because he was seventeen at the time the firefighters were killed, was entitled to be resentenced. In March 2017, Federal District Judge Fernando Gaitan sentenced Bryan to twenty years. Because he had already served twenty-two years, he was set free the following week.

Under the Missouri Sunshine Law, my son Joe O’Connor, who is working on a documentary about the firefighters case, obtained about fifty crime scene photos from the KCPD in 2016.⁷ A series of photos showed Debbie Riggs’s Toyota pickup from both the outside and the inside. One interior photo showed her vinyl purse, some sort of yellow garment, and

what looked like a plastic shopping bag in the debris of the passenger seat of the badly charred pickup. Everything except the purse, the garment, and the plastic bag was in ashes. The fire had been so intense that all that was left of the passenger seat was the metal coils; the steering column had melted and collapsed with the key to the ignition still in it.

It did not make sense to Joe that these items could have survived such an intense fire. He thought there was a high likelihood that those items had been placed in the pickup after the firefighters had doused the arson fire and gone to the other side of the construction site. To test his theory, he sent the photos to an arson expert.

In an email Joe wrote the arson expert on March 4, 2016, he did not reveal that the photos he was attaching were from the construction site where six Kansas City firefighters were killed in 1988. Referring to the interior photo of Debbie's pickup, he said, "The white purse, the plastic bag, the yellow cloth and a wad of paper all look out of place. Not only do they look like they were not burned in the same way as everything else, none of those materials appear wet from the fire hoses. . . . Is it possible these items were placed there after the initial fire?"

Three days later, the arson expert emailed his report and stated: "As shown in the photographs, it would have been impossible for those items to have been present at the time of the fire nor should they have been in the condition found if they had been in the original fire. It appears the items you referenced were damaged by a separate fire event."⁸

On August 8, 2016, I sent a certified letter to Tammy Dickinson, the US attorney for the Western District of Missouri, that began, "There is evidence in the possession of the Kansas City Police Department that could establish the innocence of the five people convicted in 1997 in the tragic deaths of six Kansas City firefighters. . . . If you will allow the full development of the evidence, I believe you will have a rare opportunity to correct these wrongful convictions and bring the actual perpetrators of this terrible tragedy to justice."

Dickinson never responded.

One thing is perfectly clear: the local US Attorney's Office and the US Justice Department have no intention of allowing the truth about this case to be revealed.

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PART I

FRAMING THE MARLBOROUGH FIVE



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The Last Alarm

The night of November 28–29, 1988, was crisp and cool with temperatures hovering around thirty-seven degrees. The wind was out of the south, gusting to twenty-seven miles per hour. There was no precipitation and the moon was full, casting its glow through scattered clouds. Visibility was twenty miles.¹

The call to the Kansas City Fire Department came at 3:41 a.m. from a security guard at a major construction site at 87th Street and 71 Highway in south Kansas City. As the guard was reporting a pickup truck on fire, a female, another guard, could be heard in the background saying, “The explosives are on fire.”

The male guard then told the dispatcher that there was a fire on both sides of 71 Highway, “Uh, there may be some—uh, there’s some explosives up on a hill that I also see now is burning.” Instead of asking the guard to be more specific and find out what type of explosives may be involved, Phil Wall, the fire department’s chief dispatcher, terminated the call and summoned Pumper 41, telling the crew, “There is a pickup truck at—south of Blue River and 71 Highway on the west side. Pumper 41, use caution on your call. There’s information there may be explosives. It’s in a construction area. The pickup truck may be in that area.”

It was turning into a hectic night for dispatcher Wall. A few minutes before the call from the construction site, he was busy sending two other pumper companies to a major fire in an occupied building at 12th and Woodland, a low-income neighborhood near downtown.

Within seven minutes Pumper 41, with a crew of three, arrived at the construction site. Captain James Kilventon informed dispatch there were two fires and asked for the assistance of another pumper company. Dispatch radioed Fire Station 30, advising the crew to check with Pumper 41 on arrival. Because it was plainly obvious from the raging fire engulfing the pickup and from the smell of gasoline, Kilventon advised dispatch that it appeared they were dealing with arson fires and the police should be sent.

Twelve minutes after the guard's call, at 3:53 a.m., Pumper 30 arrived. After seeing that Pumper 41 had the fire in the pickup under control, Pumper 30 proceeded across the median of 71 Highway and up a steep access road to the east side of the construction site where it had been reported explosives were on fire.

Before Pumper 30 settled in by the burning trailer, the dispatcher had one last chance to prevent this unfolding tragedy. Based apparently on information Kilventon received from the guards, the Pumper 41 captain now knew the burning trailer contained explosives. With this information, Kilventon contacted the dispatcher at 3:58:58 a.m. to warn Pumper 30 of the impending danger. "If you can get 30, tell them there's a trailer on fire up there, stay away from it, and we better have 107 [Battalion Chief Germann] out here. There's supposed to be explosives involved in this." (Kilventon's asking for the battalion chief meant he considered this a dangerous situation.)

Instead of communicating that information to Pumper 30, the dispatcher proceeded to radio the battalion chief.

Six and a half minutes after arriving on the east side, Captain Gerald Halloran of Pumper 30 asked the dispatcher if he could "confirm that there is explosives in this trailer or not."

Dispatch told him that Pumper 41 had advised "that and we have additional information on the original call that there were explosives in that area, use caution."

In response, Halloran told dispatch to send Pumper 41 up. Kilventon heard the transmission and informed dispatch, "We're en route now." The two security guards followed Pumper 41 in a station wagon up the access road. While Pumper 41 entered the east side and drove toward the trailers over rough, rocky terrain, the guards kept to the access road, parking some 350 feet away with a clear view of the trailers.

What they saw was a trailer burning so hot it was transparent. Through the thin metal walls of the trailer they could see the socks of explosives stacked in pyramids inside the two sides of the trailer. The back end of the trailer had risen up on its end, sticking almost straight up in the air. Although no flames or smoke could be seen, the trailer was convulsed in an orange glow with countless sparks leaping from it, emitting the sounds of hundreds of tiny explosions, like strings of M-80 firecrackers going off.

By now both pumper trucks were parked near the burning trailer.

At 4:02:13 a.m. Kilventon contacted Marion Germann, the battalion chief, en route to the site, informing him, "Apparently this thing has al-

ready blowed up, chief. He's got magnesium or something burning up here."

"Are you back up in there now or where are you at?" Germann asked. "Both companies are back up in here," Kilventon answered.

Chief Germann and his driver arrived at the scene at 4:06:23 a.m., pulling in behind the guard's station wagon, unable to get any closer due to the rough terrain. Germann could see several firefighters using a long pole in an attempt to pull a burning construction company pickup away from the trailer. To Germann the burning trailer looked like "a giant sparkler."

Within a minute of his arrival, as one of the firefighters was just beginning to train a powerful gush of water on the trailer, Germann turned on his radio to order the firefighters to withdraw immediately. Before he could issue the order, an enormous explosion erupted, instantly killing all six firefighters. The female guard would say later that the firefighter closest to the trailer seemed to explode from the inside out.

For over thirty seconds rocks and debris rained down over the construction site. A boulder the size of a stove squashed the trunk of the battalion chief's yellow car and hurled his driver, a 250-pound man, several feet behind the battalion chief's car. The female guard was knocked backward into a ditch. A gloved, smoking hand of one of the firefighters came to rest next to the battalion chief's car. Other human remains would be found as far away as seventy yards from the trailer. The battalion chief's car was totaled; the windshield caved in, the hood popped open, the light bar on top pushed back, and the side chrome sheared off. Only the headlights remained on.

At 4:08:19 Battalion Chief Germann reported the disaster to dispatch, "... explosion just as we pulled up in here. Get us all kinds of ambulances and at least a couple or three more companies."

The shock wave from the blast propelled hot metal into a second trailer less than a hundred feet to the west, cutting that trailer in two. Forty minutes later the second trailer exploded with much more firepower than the first. Many other firefighters, who were arriving from all over the city, would have been killed by that blast if Deputy Fire Chief Bill Booth, arriving on the scene ten minutes after the first blast, had not ordered everyone to pull back about a quarter of a mile to 95th Street.

The second explosion delivered five times the destructive power of the bomb that leveled the federal building in Oklahoma City in 1995. It broke windows and cracked walls for miles around and was heard all over the metropolitan area and as far away as Warrensburg, Missouri,

forty-five miles to the east. Hundreds of area residents claimed to have been knocked out of bed and many thousands said the blast jarred them awake.

Most of the property damage was confined to a ten-mile radius. More than thirteen hundred individuals and businesses would file \$18 million in property damage claims against the general contractor, the two subcontractors, and the security guard company. Mountain Plains Construction Company, the subcontractor responsible for the storage of the explosives, was forced out of business when it could no longer obtain bonding after the explosions. It had been a company with more than \$1 million in assets.

In terms of disasters experienced by Kansas City firefighters, this one eclipsed them all.

A helicopter from nearby Research Medical Center was summoned by the fire department to fly over the construction site to check for survivors. Pilot David Walton hovered above the site at 1,000 feet but his visibility was blocked by darkness and the smoke billowing up from the ground. He judged the conditions too dangerous and flew back to the hospital, arriving minutes before the second explosion erupted. Had he remained, he and his crew would most probably have been blown out of the sky.

A few minutes after the second explosion, Deputy Fire Chief Bill Booth sent up another helicopter to look for survivors. In it were Deputy Chief Logan Grote, the head of the department's hazardous materials (hazmat) team, and an employee of the construction company. It was still too dark to see below.

By now police had cordoned off the construction area, closing traffic to both southbound and northbound 71 Highway. A command post was established on an overpass at 95th. There all the brass of the Kansas City Fire Department converged, including Fire Chief Edward Wilson. The police advised waiting until daybreak, which was an hour or more away, before sending anyone to look for survivors.

Deputy Chiefs Booth and Grote told Chief Wilson they needed to find out if any firefighters were alive, saying it would be "a grave mistake" to wait for sunrise. The chief gave permission.

Booth and Grote drove north and walked a quarter of a mile to where the trailers had been, seeing instead three enormous craters. The scene was of a moonscape with wisps of smoke lapping skyward.

The two craters created by the first explosion looked like enormous swimming pools. One crater was eight feet deep and eighty feet wide; the

other was six feet deep and twenty feet across. The second explosion created a crater eight feet deep and one hundred feet wide.

All that remained of the pumper trucks was the twisted metal hulk of one of the pumpers. Only the motor remained from the other pumper. From there the deputy chiefs split up, each lighting his way with a large flashlight. Their search for survivors was futile; they found only dead bodies and body parts.

When Booth and Grote returned, they went to the command post and met with their superiors and many firefighters who by now had gathered. "I let them know there were no survivors. We had a moment of silence together. There was no prayer, just reverence and silence, and quite a few tears," Booth told a reporter.

Just after sunrise, crews of firefighters and police officers and other officials went to the blast site to secure the area. In the afternoon, companies of firefighters carried away the bodies and remains.

At the thirty-two fire station houses scattered across the city, bells tolled at 9 p.m. after a chaplain said a prayer over the fire department's radio system and ended by reading out the names of the six fallen firefighters.

On the following Saturday afternoon, four days after the explosions, a memorial service for the firefighters was held at Arrowhead Stadium, home of the Kansas City Chiefs of the National Football League.

Two black-draped pumper trucks were parked outside the stadium. Three pairs of empty boots, each topped with a yellow firefighter's helmet, were beside each pumper truck.

A stage was set up in the east end zone. The families of the fallen firefighters sat directly below in Row One. Seats in the lower section of the stadium around the end zone were filled with over fifteen thousand Kansas Citians who came to pay their respects. Above the scoreboard at the west end of the stadium, the American flag was at half-mast.

It took over ten minutes for wave after wave of firefighters, in rows of four or five, to march in and take their seats on the field. Most wore dress blues. They were followed by hundreds of police officers and paramedics. About four thousand firefighters and law enforcement personnel covered about two-thirds of the football field. Firefighters from as far away as Massachusetts and New Hampshire were in attendance.

Under a clear sky, the memorial began at 2 p.m. with the roar of five police motorcycles in an arrow-shaped formation entering the stadium through a field-level tunnel. Three groups of kilt-clad bagpipers entered next and they were followed by numerous color guards. The color guard

from the Kansas City Fire Department was one member short—Luther Hurd, one of the firefighters killed in the blast, was there in spirit only.

Among the speakers were Terry Conroy, president of the local firefighter's union; Mayor Richard Berkley; Mayor Pro-Tem Emanuel Cleaver; Fire Chief Wilson, and Alfred Whitehead, president of the International Association of Fire Fighters. When the fire department's chaplain, Arnett Williams, brought the one-hour-and-twenty-minute memorial to an end, the staccato reports of a rifle salute echoed through the stadium. After a bugler played "Taps," four helicopters flew over the stadium in a diamond formation, and then one peeled away in a traditional tribute to "the missing man."

A year after the memorial, voters approved a five-cent-per-pack increase in the cigarette tax to fund a hazmat unit in the fire department. The new unit was named Hazmat 71 in honor of the firefighters killed on Pumpers 30 and 41. The budget to start and equip the new unit was set at \$1.9 million with an annual operating budget of \$900,000 to staff the twenty-one-member team under a battalion commander. Two years later the Firefighters Fountain was dedicated in midtown Kansas City, listing the names in granite blocks of the more than eighty-five firefighters killed in service since the establishment of the Kansas City Fire Department in the late nineteenth century. The 30-41 Firefighter Memorial was dedicated six months later near the site of the explosions.



What Went Wrong?

Firefighters, probably more than any other group of public servants, pride themselves on their brotherhood. The three-person crews that form a fire company not only work together and depend on each other for their safety but also live together, eat together, watch TV, play cards, and sleep under the same roof at the station house. Over time many of them become best friends, closer than any friends they've ever had before, even their own siblings.

A lot of firefighters "are looking for a close-knit family," said Jim Gibson, the Kansas City Fire Department's administrative deputy chief. "They may be looking for something they lacked in their personal lives."¹

Most firefighters would not trade their jobs for any other. In addition to the great camaraderie they feel working in a station house, there is also a heroic aspect to the work. "It takes a certain panache to walk into a building that everyone else is running out of," said Alvin Hacker, an emergency medical technician who often works alongside firefighters. "That's what sets them apart."

"They look at risk-taking and the macho image," Gibson said. "Most jobs are boring to them. They look at the police and the fire department as excitement. They want to see how far they can go to demonstrate that macho. It's a challenge to them, not the same old grind of factory or office work."

Becoming a firefighter often runs in the family. Two of the firefighters killed in the blast, Captain James Kilventon and Michael Oldham, were sons of firefighters. Battalion Chief Germann followed two of his brothers onto the force. Another brother followed him. His older brother, John, was also a battalion chief.

At the time of the explosion, Kansas City employed about 750 firefighters of various rank. In addition to the fire chief, there were 4 deputy chiefs, 25 battalion chiefs, 165 captains, 323 fire apparatus operators, and 326 firefighters. Salaries for firefighters averaged around \$30,000. Each of the thirty-two stations is staffed by three shifts of three-person crews.

Firefighter crews work a twenty-four-hour day beginning at 7 a.m. and then are off for two days. Almost all work part-time jobs on their days off to supplement their income—painters, plumbers, roofers, handymen in general.

The crew from Station 41 consisted of Captain James H. Kilventon, apparatus operator Robert D. McKarnin, and firefighter Michael R. Oldham. From Station 30 the crew that went out was comprised of Captain Gerald Halloran, apparatus operator Thomas M. Fry, and firefighter Luther E. Hurd. Each pumper truck was equipped with a fire hose, a water pump, and a tank that holds 300–500 gallons of water.

For Halloran it was his first day back after a ten-day vacation. He had told some intimates he planned to retire at the end of 1988, just a month away. For Hurd it was the first time he ever worked out of Station 30. He was substituting for Lloyd Greenfield, who was off sick. The other regular member of that crew was Ernie Jackson, but he was on vacation. Hurd usually worked out of a station in northeast Kansas City and even though he had a touch of the flu he was the type to help out when called upon. Besides that, he and his family lived only blocks away from Station 30 at 75th and Prospect.

The captains, Kilventon and Halloran, were, through cousins, connected by marriage—sort of shirttail relatives. Although they didn't socialize much away from work, they had excellent rapport.

Halloran, fifty-nine, was the longest-serving captain in the fire department. He had been in charge of a shift at Station 30 since 1970 when the station opened. He and his siblings were the first generation of Hallorans to be born in the United States. His parents emigrated from Ireland. At the station he had set ways of doing things. He always sat in the same place to watch television and he always watched the same shows. He liked nothing better than arguing a point—on any subject. "People would come in here with the express purpose of arguing with Gerald," one firefighter said. "He had an opinion on everything."² He was survived by his wife, Leota, and three adult children, Patrick, Steven, and Cynthia Caffrey.

The word that came to mind when firefighters at Station 41—even to this day—talk about Kilventon is "aggressive."³

Over his seven years as a captain at Station 41 he had come to miss the action he had experienced as a firefighter at a station close to downtown. Even at age fifty-four, he was lobbying for a transfer back to that area.

He prided himself on being the chief cook at Station 41. His specialty was chili, every now and then a stew, but mostly chili. He was a spirited,

handsome Irishman with an infectious smile. Once he was suspended from high school for painting his hair green on St. Patrick's Day. He was survived by his wife, Cecilia, son James Michael, and daughter Alice Marie.

Robert McKarnin, forty-two, an apparatus operator at Station 41, had been a firefighter since 1968, following two years of active duty in the navy. Like his grandfather and father before him, he joined the Carpenters Union. "The guy could fix anything," a fellow firefighter said. He spent many off-duty hours at the Lake of the Ozarks, where he built his own house. He was survived by his wife, Debbie, son Sean, twenty-one, and daughter Cassie, sixteen. To honor his father's memory, Sean became a Kansas City firefighter.

Michael R. Oldham, thirty-two, had been a firefighter since 1976. His father, Charles Oldham, was a retired Kansas City fire captain. Two months before the explosion he and his family moved into a new home. He was known as a man of few words. Bill Markey, a deacon of St. Catherine's Catholic Church, said Michael's reticence could best be described by a John Wayne quote Michael taped to his refrigerator door: "Talk low, talk slow and don't say too much." He was survived by his wife, Karen, son Kyle, six, and daughter Jacqueline, three.

Thomas M. Fry, forty-one, joined the fire department in 1973 after serving in the army in Germany. For recreation he drove off-road vehicles. In the summer he water-skied. He tried his hand at skydiving, taking a couple of lessons and then making a couple of jumps. After the second jump he told his sister, "Well, I've done this," and he stopped.

Luther E. Hurd, thirty-one, was a star football player at Northeast High School in Kansas City. His dream was to play pro football, but when his mother got sick he saw his duty as staying around and taking care of her. That led him to join the fire department in 1977. "The night before he died, we talked about jobs other people had. He said he wouldn't give up firefighting for the world," his widow, Jewell Hurd, wrote in her tribute to her husband. Hurd loved to volunteer. Deputy Chief Charlie Fisher said Hurd "volunteered for any project that came along. He truly exemplified what our fire department is all about." In addition to his wife, he was survived by his daughter Giovanna, 11, a son Sean, 3, and daughter Crystal, age 2½ months.

As revered as these fallen firefighters were, what gnawed most at their colleagues was how was it possible that two such experienced crews, led by seasoned captains, could have been killed in a hazmat explosion.

Fire Chief Wilson, at a news conference held the day after the explo-

sions, said the fire department would conduct a formal inquiry, which would include going over the dispatch tapes and attempting to reconstruct “as well as possible the steps the firefighters took before” the explosion. “We’ll look to see if anything could have been done differently, anything that could have changed the outcome.”

Although he had not listened to the dispatch tapes, he opened the door to second-guessing the actions of the two pumper captains when he said, “If I was a company officer and found explosives, I would withdraw.”

The six dead firefighters had a combined 124 years in the fire department. Both captains were highly respected throughout the fire department for the concern they showed for the safety of their crews.

The basic rule for responding to a fire involving hazardous materials is to secure the area and let the fire burn out without any intervention.⁴ This is particularly the case when the hazardous materials are located in an area away from housing or business units. If there are people living or working in the area of the hazardous material, the plan would still be to secure the area and let the fire burn and to proceed to evacuate any people in the area.

One thing that did survive the blast and was found inside the demolished cab of the remaining pumper was a Department of Transportation *Emergency Response Guidebook*, detailing the proper way to deal with hazardous materials. There are fifteen variations of ammonium nitrate listed in the guidebook. Next to each type of material is a guide number that leads to information on the potential hazard and the appropriate emergency response. Each variation of ammonium nitrate also has a hazmat identification number with the sole exception of ammonium nitrate fuel oil mixtures (ANFO), which is listed as a blasting agent rather than as a hazardous material.

In dealing with blasting agents, the guidebook warns that the material may explode and throw fragments one-third of a mile or more if the fire reaches the cargo area. The guidebook directs responding firefighters not to fight the fire in the cargo. Under the subheading “Cargo Fires,” directions given are not to move the cargo or vehicle if the cargo has been exposed to heat and not to fight the fire when it reaches the cargo. The instructions are to withdraw from the area and let the fire burn.

Four of the six firefighters, including both captains, had completed the National Fire Protection Association’s course on hazmat training, “Recognizing and Identifying Hazardous Materials.” Above all else, the course stresses safety and the use of caution. The acronym “D.E.C.I.D.E.” is used repeatedly throughout the text to guide the firefighters through

the emergency intervention process and to minimize personal risk. The acronym stands for “Detect hazardous material presence; Estimate likely harm (without intervention); Choose response objectives; Identify action options; Do the best option; Evaluate process.”

What may have confused the crews that night and led them to try to hose the trailer was their assuming they were dealing not with a “cargo” fire but a “truck and equipment fire.” The guidebook has a separate subsection for dealing with hazmat fires in trucks and equipment. The directive is to flood them with water, or if no water is available, to use Halon, a dry chemical, or dirt.

Firefighters finding a trailer that is normally attached to a semitruck on fire, as well as a pickup truck and a compressor on fire next to the trailer, most probably thought the proper remedy was to douse the trailer and equipment with water. Within seconds of applying that remedy, the trailer exploded.

Further complicating matters for the arriving pumper crews was that the trailers were less than 100 feet apart. If either captain was familiar with the distance tables as set out in the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regulations, he may have assumed the contents of the trailers consisted of construction equipment or material. The ATF regulations required trailers containing explosives to be set a minimum of 224 feet apart if there was no berm or barricade between them—as there was not at this site.

ATF regulations also called for trailers containing explosives to be at least 933 feet from any highway and at least 680 feet from any city street. These trailers were located less than 600 feet from 71 Highway and less than 350 feet from 87th Street.

But likely the most confusing thing about the contents of the trailers was that the trailers bore no placards. En route to the construction site, Department of Transportation placards indicating explosives were clearly visible. At the site, flaps covered the placards to deter tampering by possible intruders. Although this was a routine safety precaution used at many blasting sites, and one the government agency in charge of regulating explosives, the ATF, at least tacitly condoned, for these arriving pumper crews it would result in disaster.

What the crews could plainly see 250 feet or so away from the burning trailer were two well-marked, tall, boxy, yellow explosive lockers sitting on the ground that housed blasting caps and dynamite. It is reasonable to speculate that when the crews saw these locked steel lockers they assumed they contained the “explosives” referred to by the dispatcher.