

Gut Shot

A Cliff Knowles Mystery

**by
Russell Atkinson**

Other books by Russell Atkinson

Held for Ransom

Cached Out

Fatal Dose

Death Row

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*If there were no bad people, there would be no good lawyers.
Charles Dickens*

Chapter 1

My name is Cliff Knowles and I'm a private eye. I've always wanted to say that. It sounds so cool. It's true, too. But I'm not what you think. I'm not that kind of private eye and I never wanted to be. Those guys make for great books and movies, but they don't make much money and the job is too sleazy and dangerous.

I'm a lawyer and licensed private investigator. I used to be an FBI agent but took early retirement after my wife was killed in a car crash. A rich asshole drove drunk and slammed into her at seventy-five. There was a big lawsuit and a big settlement. The episode made me rich but left me heartbroken and bitter. At work I tangled with the front office one time too many. The Special Agent in Charge, or SAC, didn't like me and the feeling was mutual. That's another story, though. I said sayonara to the Bureau among some more unprintable things.

After I left the FBI, I got bored sitting around counting my money and feeling sorry for myself so I paid my bar dues up to active status and took the private investigator exam. Now I do investigations for big law firms and tech companies. Mostly due diligence investigations for mergers and acquisitions, but other things, too, like sensitive background investigations or support for civil litigation. I make a lot of money. Probably more than you if you live in any sane part of the country. I don't. I live in Silicon Valley where real estate prices are unreal and so are the salaries, but it's the stock option millionaires who cash out that are knocking down the old tract houses and building McMansions all around me. Kids, or so they seem to me.

Working again turned me back into a human being. I was pretty obnoxious there for a while during the lawsuit and when I got transferred up to San Francisco to do admin work. I admit it now, although I didn't see it then. So I left. I began filling my time with hobbies and fitness routines – running, gym workouts, geocaching – but I didn't have any friends. Not any non-FBI friends, I mean. I met some great people, but fellow hobbyists aren't the same as a fellow agent you worked with for years. My old squadmates were still great, but they were still working. What you hear about the FBI being a big family, that's true. I've stayed in touch with the agents I worked with and I plan to do that till the day I die. But my best buddies, the ones my age who've only now started to reach retirement age, have all moved away to where they can afford to live well on a government pension. Silicon Valley isn't that place.

As they say, time wounds all heels, and I got wounded pretty good. I was suspected of being a serial killer at one point and had to save my own neck by finding the real killer, but that's another story too. The more conventional form

of that aphorism eventually came true, too, and in time I healed. My Bureau friends introduced me to a woman with execrable taste in men and incredible generosity, a combination that somehow permitted her to see something in me worth having. She's now my wife and the mother of my son Tommy. He's named after our favorite president, although in my case that's only because I went to Thomas Jefferson Junior High School. Go Jaguars! Ellen is still on maternity leave and hasn't decided whether to go back to the Bureau. She's an agent, too, and loves the job, but she's always wanted to be a full-time mom. I will leave it entirely to her choice. Happy wife, happy life and all that. Besides, she can take me in two falls out of three, which can be fun at times, but what I'm saying is she's no shrinking violet.

Anyway, my business started booming and I couldn't be happier. I'm my own boss and I don't really need the clients. I can tell them no without worrying about it, but the fact is I enjoy the work and the people are usually decent to work with. My secretary Maeva is a sweetie and whip smart, so I can pretty much go along on cruise control. If I want time off to go geocaching or do anything else, I take the time. Maeva can handle things. So I never expected to be involved in another murder investigation. Like I said, I'm not that kind of private eye.

It started with a call from Bert Breen. Talk about your bolt from the blue. I hadn't heard from or about Bert in years. Back when I was in the Bu he was an AUSA. That's an Assistant United States Attorney, a federal prosecutor. We're talking fifteen, eighteen years ago when I was still a brick agent. I became a white-collar supervisor later, but back then I worked on a general criminal squad in San Jose. We handled violent crimes like bank robbery and fugitive investigations, and a lot of miscellaneous stuff, too, like civil rights and applicant background investigations. The other squads specialized in drugs, gangs, white-collar, or terrorism.

Bert handled pretty much the same kind of cases we worked, so he was our regular go-to guy there for a time. What he really liked best, though, were the civil rights cases. He was a hard-ass prosecutor all right and did a good job on the regular crimes, but he had a broad streak of left-coast liberal running through him, too. An idealist, you could call him, although some agents called him some less charitable things. After all, prosecuting civil rights cases meant trying to throw cops in jail. Whose side was he on, anyway? You know how it is.

I got to know him when I got assigned a civil rights case. It wasn't the first one I'd ever had, but it was the first big one. There used to be an insane asylum in Santa Clara. I know that's not the politically correct term, but get used to it. I'm not a politically correct guy. It was a goddamn nuthouse known as Agnews. It was enormous and housed every type of mental patient you could imagine. Most of the people were under treatment for mild forms of impairment, the harmless patients. But one wing was dedicated to the ones no one wants to talk about, or even think about. That's where the violent wackos went: the crazies

who'd jump on your back and bite your ear off if you weren't careful; the ones who screamed like a banshee day and night; the ones who tore their hair out, shredded their skin, and ate anything that wasn't nailed down – rubber gloves, thumb tacks, anything. They drooled and spat and fought and shit their pants unless they were doped up on enough drugs to knock out the entire Manson Family. The most powerful psychoactive drugs known to man were consumed like M & M's there and probably not just by the patients.

We received a complaint, an allegation from the mother of one of those poor bastards, that her son was being beaten and abused there. She claimed that a lot of the patients were, too, and that some had died from the abuse. We pretty much have to open a case on every civil rights complaint so that one got handed to me. I checked with Santa Clara police and met up with a savvy detective there named Romero. Romero was a street-wise detective with a Mexican accent and twenty years in. Short, thick, and all muscle, I'd say he was built like a fireplug if it weren't such a cliché. I'll say it anyway. He was built like a fireplug.

It turned out he'd investigated several deaths there over the last four years, and agreed that there was a problem. All of them were in that wing, the one I thought of as wackoland, but different staff members were involved in the different cases. All of the victims had bruises or wounds consistent with beatings, but the story was always the same. The staff members in charge said the marks came from patients pounding on each other, or from falls, or even occasionally from the staff having to defend themselves, not from abuse. The witnesses were all staff members who dealt with these patients and they weren't about to say anything bad about their co-workers, much like the blue wall cops have. The other patients may have been eyewitnesses, but they were useless since you couldn't even interview them. They were drugged-up psychotic zombies ninety-nine percent of the time and heard voices or had hallucinations the other one percent, if they could talk at all. Of course, they may also have been the murderers, assuming there were murders. Can you imagine one of them on a witness stand?

Romero's investigation focused on one staff member in particular, a brute named Bruno. Bruno had some sort of bullshit professional license with the word "therapist" in it, but basically he was a plus-size babysitter for the worst, most violent unit. Bruno had a record of a couple of DUI's and one drug arrest that went away. I set up an interview with him.

I didn't realize until I got there that the interview was going to be right in that ward. They told me they didn't have enough staff to have someone else look after the inmates there – that's how I thought of them when I saw the place, inmates – so I was ushered into the ward for the interview while Bruno watched these patients. I think that was intentional. I know they have a conference room there they could have used. The brass knew why I was there and they were daring me to see how long I could take that environment before knocking someone upside the head or worse.

I'm a pretty big guy, and I work out, but I have to tell you, that was one of the scariest moments I'd had in the FBI. I was armed and that was a mistake. My gun was holstered out of sight under my sport coat, and I made sure to keep my arm pressed tightly against my side so that none of the patients could grab it or even see the bulge. I realized as soon as I walked in that the inmates were likely to do anything, rational or not. One of the little guys was the most dangerous. He was tiny and non-verbal. He ran around crying out from time to time and, despite being "on his meds," moved awfully fast. He reminded me of those monkeys you see on travel shows, Gibraltar or Thailand or wherever, that scamper around with blinding speed and steal the food from your hands and will scratch or bite if you try to resist.

I saw the son of the woman who complained, too. He was about six-five, two fifty, a shapeless hulk and, to my relief, docile. He was called Bobby. He sat staring at a television screen mounted near the ceiling. He was "non-verbal" too, but I think it was just because of the drugs he was on. He was mumbling something. I immediately gave up any thought of interviewing him. I observed the bruises on his arms and made a mental note to write that up, but that pretty much completed my crime scene investigation.

I interviewed Bruno, of course, and he explained that Bobby was a pica patient. Pica is that syndrome I mentioned where people eat things they shouldn't, and Bobby is one of those who'll eat anything. Bruno explained that he was doing the laundry and got distracted by a patient. There's a washing machine right there in the ward because these patients are constantly fouling themselves, smearing food all over, and whatnot. Part of his job is to keep them in clean clothes. He does the laundry multiple times a day, which makes it difficult to keep the laundry room door locked as it's supposed to be. He said he'd loaded the washing machine with the clothes and was measuring out the detergent when a fight broke out on the other side of the room. Bobby was quiet, watching TV, so Bruno ran over to break up the fight. That took a minute or so. When he got back to the washing, Bobby was there eating the detergent from the metal measuring cup. Bruno knocked the cup from Bobby's hand and tried to get him to spit out the soap, but wasn't very successful. He had to wrestle Bobby away from the laundry area, secure the soap and the laundry door, and call for orderlies to haul Bobby to the medical ward for attention.

There was no way to disprove the story. Bruno didn't seem evasive and the story seemed plausible. He looked like he'd taken a few knocks himself and his eyes had deep dark circles underneath them. I asked him if he was a drug user and he said he had a prescription, but got all vague after that. I knew he was taking something and I doubted it was all prescribed. More like proscribed, but what the hell. I wasn't there to nab someone on rinky-dink drug charges. The killings were the real concern here.

After weeks of investigation, mostly collecting medical examiner's records on the deaths and related paperwork, including a lot of Romero's work, I

wrote up my report. I presented the case to Bert for a prosecutorial opinion, but there was no doubt in my mind that he was going to decline to prosecute. FBI agents aren't allowed to recommend for or against prosecution in civil rights cases. That's a policy Bobby Kennedy put in decades back. He didn't trust the FBI. The ACLU types in the DOJ Civil Rights Unit ultimately make the decision, but rely heavily on the AUSA in the field, as long as the AUSA has been trained in that unit.

To my surprise, Bert said he was going to pitch for prosecution with DOJ. He liked the paperwork I gave him on the deaths, which pointed to negligence on the part of the management there at Agnews that arguably led to the deaths, decisions about understaffing, about failing to do proper background investigations, and so on. He asked me my opinion, even though he wasn't supposed to ask and I wasn't supposed to give it. I told him that the institution was badly run and a crying shame that the patients had to suffer the way they did, but I didn't see how a case of criminal intent could be made. Murder charges required intent. Violence was a constant part of the environment.

He ended up getting permission to continue the investigation and notify the state officials there that he would be presenting the case to a grand jury. It was a bluff I realized later, but I was floored when his threat made something happen. The state came up with the money to break the place up and house the patients in small, less-institutional settings with better staffing. Some personnel were transferred or let go. Things got better and no more violent deaths occurred. The Agnews management announced the changes and took credit for it all. Neither Santa Clara P.D. or the FBI was ever mentioned as having anything to do with it. Eventually the whole parcel was cut up and sold to Sun Microsystems, which then got bought by Oracle and Silicon Valley now has yet one more corporate tech campus. There was no arrest or conviction to make the headlines and no stats for me, but I didn't mind. It was one of those invisible rewards I got as an agent that I was able to improve people's lives. The public never has known what we really did.

I developed a healthy respect for Bert from that case. I was disappointed but not surprised when a year later he left to join a civil litigation firm in Oakland. Most of the AUSAs who were any good took that same route. They had mucho trial experience in the federal courts and could make many times the money on the outside. Mostly they did corporate civil trial work, but some did criminal defense, usually white collar stuff. I used to resent those who made that choice, seeing them go over to the "dark side," but, now, who am I to judge? I'm helping rich people get richer and making a bundle at it.

Which brings me to the point. I'd just returned from running errands for Ellen and was carrying two bags of groceries to put in the small office fridge. Ellen had to give up her Bureau car while she was on maternity leave, so we were down to just the SUV, which I was using today. That meant she was trapped all day with Tommy and I got to fetch the groceries. I was putting the

perishables in the office fridge when Maeva walked into my office and said I'd had this call from a lawyer who wanted me to be his investigator on a murder case in the East Bay. She was holding a note out to me, but I didn't see it because I was bent over putting away the groceries and had my back to her.

"I hope you told him I don't do criminal work," I said. I was wondering what kind of numbskull would call me for something like that. If he'd done any checking he'd see that I don't do that kind of work. I have a website. Plus there are plenty of P.I.'s who work over there in Oakland. It's got one of the highest murder rates in the country per capita. I'm sure the defense bar there has its own set of competent investigators, ex-homicide cops who know a lot more about that stuff than I do.

"I did, but he said you'd want to do this one. He said you knew him, too."

That piqued my interest, of course, and I stood up quickly, clonking my head on the shelf over the fridge. "What's his name?" I asked, snatching the note from her hand, rubbing my head with the other hand.

"Bert Breen," she said snippily. "Don't take my finger off there, big guy." I had yanked the note pretty hard.

But I barely heard her. I was in a state of shock staring at the last three words of the note: "Victim – FBI agent." My brain circuits exploded somewhere deep inside at the very idea that Bert would think I would ever help the killer of an FBI agent. More to the point, I hadn't heard of any murder of an agent in years and never around here.

I called the number on the note before I even sat down and cursed silently at the phone when it took seven rings before a secretary answered. The call had forwarded over to the main receptionist of Bert's firm when he didn't answer. I guess his personal assistant was out or inundated with calls. I asked for Bert, making a point that I was returning his call, but was told he was out of the office meeting with a client. If he was working a murder case, I knew that meant he was at the jail and couldn't take any calls. I'd just have to wait. I left my name and number and added my cell number, too, since I'd want to get the call at home. I usually didn't give that out to new clients, not that I considered Bert a new client. Obviously, I wasn't going to take the case.

Anyone who tells you fatherhood is the greatest thing that can happen to you, they are understating it.

Mike Myers

Chapter 2

Bert hadn't returned the call by the time I got home. I was late, too, because I was so worked up over this call, I'd forgotten to get the groceries out of the office fridge when I left. I turned around when I was halfway home, picked them up, and went home again.

Ellen was cross, not so much at me for being late, but at being cooped up with Tommy all day. I think she was ready to chew nails over just about anything. She was exhausted, too. Like most first-time dads I was clueless about how much childbirth can take out of a woman. Yeah, yeah, I'd been to the classes with her, read the articles, and heard the lectures from the OB-Gyn, but you don't really know it until you live through it. The lack of sleep, especially. Ellen insisted on breast-feeding, a decision I totally supported, and not just because it meant she's the one who had to get up in the middle of the night. Of course, I was happy enough it wasn't me, but then I learned I wasn't escaping unscathed. Even when she was nursing, it was my job to get Tommy out of the crib and bring him to her. I never quite saw the logic of this. I still had to go to work every day. Why did we both have to lose so much sleep? Her mother had stayed with us for six weeks, but she'd been gone for a month now so it all fell to me. I'm over fifty and have no shame in admitting I don't bounce back like I used to. Ellen's in her late thirties and a natural athlete. She was in great shape throughout the pregnancy, but even she is no vernal pullet, if you get my drift. And Tommy weighed ten pounds at birth. In short, she's been cranky lately, and with good reason.

As I put the groceries away I asked her if she'd heard anything about an agent being killed. I told her about Bert's call. This stopped her whining – I mean her totally justified complaints. She hadn't heard. She used to watch the five o'clock news every day when she first took leave, those last few weeks before the birth, but since her mom left, any moment that she didn't have to take care of Tommy she was either napping or doing some necessary chore around the house. We turned on the TV news, but it was already into prime time, so there was no local news going; we'd be better off checking online.

"I'm sure someone would have texted me if an agent had been killed," she insisted. I tended to agree and said so. But after a couple of minutes, Tommy began to fuss and she "requested" that I take care of him this time. I complied, and as I began to change the diaper in the nursery I heard her on her phone calling Matt Nguyen, one of her fellow agents. I was Matt's training agent once upon a time, and now he worked in the Palo Alto office with Ellen.

“My god, Matt,” I heard her saying, “Why didn’t someone call me?” Pause. Then, “Yes, he did get the call. That’s how I found out. He’s right here. Do you want to talk to him?” Longer pause. “I don’t know. He hasn’t even talked to the lawyer. He doesn’t know anything about it. You sure you don’t want to talk to him yourself? Okay, have her call him.”

She hung up and waited for me to walk back into the kitchen before telling me what Matt had said. When I emerged from the nursery, I had Tommy in my arms. It was worth the poop smell despite what some of those wimpy men say. I enjoyed holding him while I could, but he began to fuss again and Ellen was almost bursting, waiting for me to give her my attention, so I put him down in his playpen.

“What did Matt say?” I asked. No sooner had the words left my lips when the house phone rang. I assumed it would be Bert and reached for it.

“That’ll be Gina,” Ellen said, and she was right. Gina Nguyen was Matt’s wife and another agent on my squad years ago. She was Gina Torres then; she’s now the supervisor of that same violent crimes squad in San Jose. Matt and Gina are the ones who introduced Ellen and me. The four of us still meet for lunch once a month when we can, but we haven’t been able to since the baby came along.

“Cliff, you’ve got to help him,” Gina blurted out without so much as a “hello.”

“Help who?” I replied huffily, miffed that no one had yet told me what happened.

“Woody Braswell. He’s been arrested. He shot Jermaine Logan out at firearms. I told him to get Bert Breen to represent him. Matt just called me and said Ellen told him that Bert called you to investigate.”

“He did, but I missed the call and there were no details in the message. I’m waiting for him to call me. This is the first I’ve heard. What happened?”

“That’s all I know. Woody shot Jermaine and got arrested. There’s been a lot of talk, but it’s second- and third-hand. We’ve all been told not to talk about it, either inside or outside the office. It hasn’t even hit the news, I don’t think, but that won’t last long. At least now I know Bert is representing him. Thank God for that. I just hope Logan pulls through and it turns out to be an accident. The SAC called me when it first happened and said not to expect Woody back until this is all over.” Woody was on Gina’s squad. She’d have to reassign all his cases.

I was about to tell her about the word “murder” on the note, which meant Logan had died, unless there was a mistake somewhere in the chain of communication, but I realized that could turn out to be attorney-client information. Of course, if true, it would soon be public, but still, I’d better not say anything.

My brain was still trying to process this information. I’d been sure there was no way I would ever work for a defense lawyer helping a murderer, but then I would never have believed Woody Braswell would be the defendant. Woody

and I go way back. He was on my squad in San Jose when I first took over the white collar desk. He was a hard worker and a nice guy, too, but really didn't have the right skills for my squad. His paperwork wasn't great and his heart wasn't in it.

Woody's a big guy, taller than me but built a lot better. I'm narrow in the shoulders and thick in the waist. He's the exact opposite. I could actually outlift him back then when we did the heavy weights, but not by much, and he was a much faster runner and better shot than I was. He was on the SWAT team for a while, but that turned out to be too much of a time drag for him, so after the novelty wore off, he quit. He stayed on as a part-time firearms instructor, though. The last I heard, he was still doing that during agent qualifying, but he didn't train police and other law enforcement the way the regular training unit did. He mostly worked fugitive cases under Gina now.

I'd bumped into Woody several times since I retired and still considered him a friend, although we didn't hang out together or anything. He was shot a couple of years ago on a case I was involved in. Ellen worked on that case, too. Ellen pretty much saved Woody's life and mine, too, although it's more complicated than that.

I thanked Gina for telling me what had happened and told her I had to get off the line in case Bert called. We hung up. Ellen immediately began peppering me with questions, but I didn't know any more than what Matt had already told her. We thought about going online to search local news sites or turning the stereo onto an AM news station, but quickly decided not to bother. The news would have it wrong anyway. Bert would no doubt be calling soon with the real story, and in any event we were both hungry and wanted our dinner.

I knew we were supposed to be having pork chops and mashed potatoes that evening, one of our standard meals, but I didn't see any evidence of potato peels or anything else in the kitchen suggesting cooking. My stomach was growling, but I wanted to be careful about how I phrased my question. "Are we still having pork chops?" I asked in as casual a voice as I could muster, trying to convey that it didn't really matter to me, like stale bread crusts and coffee grounds would be just as good.

"Pizza."

"Mmm, I love pizza," I replied truthfully, but I left out the part about "Again? We just had pizza four days ago." Oh well, at least it would give me an excuse to drink beer. I'd refrained from alcohol in solidarity with Ellen while she was pregnant, and I must say I've enjoyed my beer since Tommy was born. Of course, if we keep having pizza and beer for dinner, I'll put back those ten pounds I lost. "You want me to pick it up?"

"No way, Jose. I've already ordered it. It'll be in my name at Jake's. In fact, I need to leave now. It should be ready in ten minutes." With that, she went into the bedroom and came out with her purse. Jake's in Sunnyvale was a bit farther than the Round Table, but their pizza was better. I suspected, though, that

she chose Jake's because its distance gave her a longer time to be out of the house and free of the tyranny of an infant. I didn't mind, though. I was still in the deliriously proud new papa stage with Tommy and relished the chance to be alone with him. As long as it wasn't at three in the morning, of course.

Ellen kissed my cheek and took off to get the pizza while I sat down on the floor next to the playpen and ogled my little bundle of joy. I cooed in stupid baby talk and wiggled my finger against the webbing. He just looked at me dumbly, but I interpreted every squinty-eyed expression as evidence of brilliance and future success. At least he wasn't crying.

Then my cell phone rang. It was Bert.

"This is Cliff," I answered.

"Cliff, it's great to hear your voice again. How have you been?" He sounded the same and I was immediately reminded of the look and even smell of his office at the federal building.

"Couldn't be better, Bert. How about you?"

"Oh, you know. Making money, but I have to say I miss those days throwing bad guys in jail."

"I know what you mean. How's the family?" I knew he was married and had kids but I couldn't remember how many or what ages they were. I'd never met his wife and didn't know her name. I was itching to get to the case, but I felt it was better to let him lead into it. Besides, I really was interested in how his life had gone.

"Sarah's looking at college brochures. She wants to go to an Ivy, wouldn't you know. And Rachel's engaged to be married later this year. Hey, I hear you remarried. Congratulations."

I noticed he hadn't mentioned his wife but said nothing about that. It might mean nothing or it could mean any of several bad things. "Yeah, I did. We just had a baby, a little boy." For a moment I wondered if he'd been following my career and post-retirement life, but then I realized Woody must have updated him about Ellen and me.

"That's wonderful, Cliff. I'll have to hear more when we get together. I've seen you in the headlines more than once in the last couple of years, but I don't have a lot of time right now. I guess you've heard by now that Woody's been arrested for murder."

"Sort of. I saw a note from Maeva, my secretary, that you called, and I spoke to Gina, but she didn't even know Jermaine was dead. Is he really dead?"

"I'm afraid so. Who's Gina?"

"Woody's supervisor, violent crime squad in San Jose."

"What else did she tell you?" The urgency in Bert's voice was obvious.

"Only that Woody was arrested, that it happened out at firearms, and that she hoped it was an accident. I don't think the details have made the rounds in the division, but there must be rumors flying. So what happened?"

Bert cleared his throat before answering. "Cliff, I can't tell you anything until we come to an understanding. I'd really like you to investigate this case. Finances might be a problem, but assuming we can work that out, will you do it?"

"Bert, I can't decide until I learn more. Why do you want me, anyway? There must be homicide cops or defense experts who know a lot more about murder than I do."

"Woody is asking for you. He's insistent, in fact. You're right. No offense, but at first I didn't think you were the best choice, although you know I always thought you were an excellent investigator."

I wasn't sure how to take this. Maybe Woody or Bert thought I'd work cheap, or even free, because Woody was a friend. They'd be right, too, but that wasn't a good reason to hire a murder case investigator. You don't cheap out on something like that. I also wasn't naïve enough to think that Woody couldn't possibly be guilty of murder. Highly unlikely, yes, almost impossible in my opinion, but I've always believed that anyone can snap and do something horrible in an instant of rage or confusion. Every time a murderer is caught you have a half dozen neighbors, relatives, and ex-teachers interviewed on TV saying they know him and he could never be guilty of something like that. He's not that kind of guy. Then, of course, the police produce the bloody murder weapon from his car, the threatening email, and the guy confesses. Meanwhile, his mother is on TV every night professing his innocence. If Woody really murdered Jermaine, I didn't want to be a part of it. I didn't know Jermaine very well, but I remembered him as a nice, decent guy, too.

"Did Woody say why?" I asked tentatively.

"He says you're the best investigator he's ever known and that you've been through it yourself. You've been falsely accused of murder. He's sure you'll believe in his innocence and work until he's cleared. He's afraid another investigator who does this kind of case will treat it as just another paycheck."

"That's flattering, but why would you go along with it if you didn't think I was the best choice?"

"I did try to talk him out of it at first. You're a lawyer, too, right? He's a private client and insists on it, and he calls the shots. He can dismiss me, so I have to ask you. If you refuse, then I'm free to hire someone with more experience in this kind of thing. But the more I thought about it, I realized you'd be a better fit than I gave you credit for initially."

"Why is that?"

"This is a federal case. The charge will be murder of a federal agent. Section 1118. You know the federal criminal system a lot better than ex-homicide cops. There hasn't been a federal murder case in the Bay Area in years. No one's really experienced at this, not even the judges. And most of all, you know the FBI."

I processed this information. Bert had said “will be,” which meant Woody must not be formally charged yet, but I knew that already. The killing just happened today. He would have been arrested on probable cause alone, presumably by fellow agents on the scene, and was being kept overnight. By law he had to be brought before a judge within forty-eight hours or be released.

“Is the initial appearance tomorrow?”

“Yes, the federal courthouse in Oakland. Ten A.M. Will you be there?”

“I will.”

“So you’re in?” Bert asked hopefully, and I could tell he wasn’t faking it. He really did want me for this.

“I still don’t know. I need to know if he’s guilty, Bert. Look, I’m a lawyer like you said. I know that whatever you tell me is privileged whether I accept the job or not. I’ll keep it to myself. I won’t even tell my wife ... especially not my wife. She’s an agent. Just tell me, did he do it?”

Bert didn’t answer right away. If he told me anything at this point, that would reveal a lot about his judgment about the case. Finally he replied, “He shot Logan, but he swears it was an accident.”

I waited for him to add “and I believe him,” but he didn’t. So I came out with it. “Do you believe him?”

Again, Bert didn’t answer right away. That wasn’t a good sign. “We both know that doesn’t matter. I find it a lot easier to believe it was an accident than an FBI agent would gun down another agent, especially in front of a bunch of other agents. I’ve been lied to by enough clients that I’ve learned to suspend judgment in these cases. You should too.”

That meant Woody was looking awfully guilty. Bert probably knew firsthand what I had been told in a lecture by a criminal defense attorney in law school, someone from the public defender’s office. I remember it well. She warned the idealistic young Berkeley liberal activists among us, which constituted at least half the class, not to think that criminal defense was primarily keeping innocent people from being wrongly convicted. She said that eighty percent of her clients gave her a guilty story and she estimated that eighty percent of the rest were lying to her. Do the math. That meant ninety-six percent were guilty in her opinion. And in my FBI experience I’m sure that the real percentage is even higher than that. But I knew that miscarriages of justice did happen, especially in heinous crimes like murder that so enraged or frightened a jury that they’d convict anyone hauled into court for it. If there was anyone I wanted to be innocent, Woody would be at the top of the list.

“Can I talk to Woody?”

“Sorry, no, Cliff. I can’t allow that. Not until you agree to be the investigator on the case. There’s no phone or visiting privileges at the jail anyway at this hour.”

“Okay, Bert, I’ll be at the initial appearance tomorrow. I’ll give you my answer then.”

“Fair enough. Thanks, Cliff. I really appreciate it, and I know Woody will, too.”

As soon as I hung up I realized Tommy was crying. I cursed myself for letting myself get too wrapped up in the call to pay attention. I had even unconsciously walked into the bedroom to avoid the noise. My priorities were going to have to change. I picked him up and hugged him to me, trying to calm him down. I knew I should burp him, so I headed back to the nursery to get that cloth to put over my shoulder. Of course, two seconds before I got there Tommy urped up all over me. Ahh, how I love the smell of puked milk in the evening. At least it was just on my polo shirt. I rarely wear suits any more. Thank God for Silicon Valley business casual.

Tommy was happy again, so I put him back in his crib – on his back, of course – while I changed my clothes, keeping my ears open for any sign of distress. By the time I emerged he was asleep and Ellen was arriving with the pizza. We were both ravenous and Tommy was quiet, so without waiting we opened the box and each slid a slice onto a plate, pulled a beer from the refrigerator, and sat. After a few bites Ellen got up, put the rest of the pizza in the oven to stay hot, and pulled out a fruit salad she’d made earlier.

“Almost forgot,” she said as she spooned the fruit into a couple of bowls and plunked them down on the table. She handed me a fork, too. “Was Tommy good?”

“Perfect. Is there a better child in the entire world?” I said. She snorted derisively at the hyperbole, but the crinkles at the corners of her eyes told me I’d said the right thing.

“Bert called,” I told her. “He says Woody wants me because I’ll believe in his innocence. I’m going to go to the initial appearance tomorrow morning. It’s in Oakland. I’ll need the car.”

“Cliff,” she objected hotly, “I need it tomorrow. I have to take Tommy for his checkup and I have to go shopping. I just had you pick up a few essentials today. I’ve got a shopping list a foot long and a doctor’s appointment for Tommy.”

I realized we were going to have to get a second car. Ellen had had her own car when we got married, of course, a Ford Fiesta on its last legs, and I’d had a Volvo C70 convertible, a really nice ride. But when I totaled mine, we traded in her Fiesta along with my insurance money and got a new Mercedes SUV. She had her Bureau car for work, including commute, so that seemed like all we needed, and we didn’t have room for three cars. Then she went on maternity leave and had to turn in her Bureau car. We were fine at first when her mom with her rental car was here to help with the baby, but these problems kept arising now that we were down to one car.

“Okay, I forgot about that. Tell you what, I’ll have Maeva pick me up and drive me to the Fremont BART station. She’s an early bird anyway. We can use the carpool lane. Coming back I can take BART to the City and switch to

CalTrain.” BART stood for Bay Area Rapid Transit, the electrified rail system in the East Bay and San Francisco. It didn’t extend to the lower peninsula. CalTrain is the older traditional commuter railroad that runs up the peninsula connecting Silicon Valley with San Francisco. The systems connect south of San Francisco, but aren’t well integrated. Getting to Oakland by public transit isn’t easy from where we live. There’s a body of water with over a thousand square miles of surface area between us.

“So what else did he tell you?” Ellen asked. “Don’t tell me anything you’re not supposed to.” She didn’t want to be dragged into a conflict of interest situation any more than I did. She might even be called on to testify for one side or the other, since she’d worked with Woody.

“Nothing really. Woody says he’s innocent. Bert can’t say more unless I agree to work the case, which I haven’t yet.” I didn’t tell her that Woody said it was an accident. Stories can change, I know, and I didn’t want one explanation on the record that contradicted something later. He could be innocent for other reasons, like self-defense or insanity.

“Is Jermaine still alive? Matt wasn’t sure on the phone.”

“Apparently not.”

Ellen crossed herself and shook her head. She’s a devout Catholic. I’m neither devout nor Catholic.

We were working on our second slice when Tommy began to cry. Ellen immediately began to lactate. “Dang it!” she cried, the closest she ever came to swearing. She knew she was lucky that she had milk since many women can’t manage it, but it could still be a pain. She got up and went in to nurse Tommy, her pizza and beer still on the table. I noticed that she’d only taken a few sips of the beer. That’s all she ever drank while she was nursing. I finished hers off. No point in letting good beer go to waste.

Bert texted me the courtroom number for the initial appearance. I called Maeve and told her to pick me up in the morning. I cleaned up the dishes, but Ellen was still hungry, so we reheated the pizza after a couple of hours. Eventually we got through the pizza, the dishes, and changing Tommy two more times before he finally conked out, or seemed to at least. It was after ten.

We have our favorite shows. Some we stream but broadcast shows we record on the DVR so we can zap through the ads or just because we can’t watch in live time, what with Tommy’s needs and all. So we were watching a nine o’clock show and I was zapping through the ads when I saw a flash of the FBI seal. I rewound and saw a teaser for the eleven o’clock news with the words “Breaking News” in the banner underneath. The female anchor, young and beautiful, of course, unlike the chubby male next to her, said that an FBI agent had been killed and another agent taken into custody. Details at eleven.

We could hardly contain ourselves, but didn’t have long to wait. When eleven rolled around we stopped watching the recorded show two-thirds of the way through and tuned in the news. The top story was about President Obama

and ISIS but we were too wrought up to pay it any attention. The story we wanted was second. The male anchor said that an FBI agent had been killed during a training exercise at Santa Rita. He turned it over to the reporter outside. That was an older black woman standing on the steps of the federal courthouse in Oakland. She said that an FBI agent had died from a single gunshot wound during a training exercise involving an arrest scenario.

"A single gunshot, good," Ellen mouthed softly. She knew, as I did, that that made it more likely to be an accident. If Woody had fired more than once, it would be hard to argue accident.

"Agents on the scene arrested the shooter," the reporter went on, "a fellow FBI agent. Authorities are not releasing the names of the victim or the suspect, but sources have identified the suspect as Sherwood Braswell, a twelve-year veteran of the FBI." A picture of Woody appeared on the screen. He was wearing a football uniform, holding his helmet in a stiff pose. It must have been taken from his college yearbook or some team publicity photo. I knew he'd played football back then, varsity at a Division 1 school, if I remembered right. The bushy afro looked ridiculous on him now. He could pass for a Wall Street banker these days, but who among us doesn't look ridiculous in our old photos. He still had the physique of an athlete, so despite the passage of years the picture was a pretty good likeness if you could ignore the afro and the uniform.

"Charges are expected to be filed here in federal court in Oakland tomorrow," she continued. She didn't specify what kind of charges. "The FBI has issued a statement offering condolences to the victim's family and saying it's always a sad day for the entire FBI when one of our own is lost. They said the suspect has been suspended pending investigation and urged the press and public not to jump to any conclusions. They have not released the name of the victim but we have learned he was a single male and from back east originally."

The male anchor broke in and asked if there had been any explanation of why the victim was shot. Had there been a fight or ongoing issues between the two men? She replied that she did not have that information at this time but said she had spoken to one source who wished to remain anonymous. "That source told me," she stated ominously, "that one of the agents on the scene was heard saying that the suspect had yelled out, 'Die, sucker,' right before pulling the trigger at point blank range."

The anchors went on to other stories and I flipped off the TV. "Holy moly," I muttered and looked at Ellen. I've learned not to swear around her. She met my eyes briefly and I could see tears in hers.

*The cure for crime is not the electric chair, but the high chair.
J. Edgar Hoover*

Chapter 3

The next morning Maeva dropped me off in Fremont. When we drove by the Tesla factory I told myself I'd have to get me one of those one of these days. But, no, I'm past that stage. I had my fun with the Volvo.

I rode the whole way up to Oakland standing. Silicon Valley is booming and there's crowding everywhere – on the highways, the city streets, the buses and trains, too, it seems. The herky-jerky train, the crowds, both set my teeth on edge. I was already in a bad mood when I stepped off the train in downtown Oakland.

I got off at the 12th Street and Broadway station and walked up 14th to Clay. I hadn't been in downtown Oakland in several years and I was surprised at the transformation. Oakland has a reputation as a tough town, and not without reason. You don't want to be walking on International Avenue after dark, not unless you're there to score drugs or a hooker, but downtown during the day is as safe as any big city downtown. The federal court complex was impressive. The landscaping there and in the nearby park was nice and the people all around seemed busy going about normal lives. I'd heard that Oakland was becoming the "it" place to be with the young crowd, too. The jazz clubs, funky restaurants, and Internet startups were blossoming all over. San Francisco was passé, too expensive, and too touristy.

Naturally, just when I was coming out of my bad mood, this good impression had to be spoiled. The courthouse was surrounded by a crowd of demonstrators whose only purpose seemed to be to antagonize police and see if they could provoke a violent response that could be captured on video. They were demanding "Justice for LaDyamian," whoever he or it was. I didn't know anything about LaDyamian, but I'll bet I could guess what race he was. I also didn't know what "justice" for him was. Most of the time on the news it means the guy is dead. Did they want him resurrected? Typically they want some cop's head, but then they want that at any given time whether or not there's a LaDyamian in the picture. As I pushed my way through in my suit, which I do wear when I go to court, even as a spectator, I was almost tempted to announce to the demonstrators that I was on the defense team for a black murder suspect, but that would have been hypocritical. One look at me and they could tell I wasn't on their side.

The courthouse is named after Ron Dellums, a very liberal African-American Congressman who represented Oakland for decades. After that he became Oakland's mayor when Jerry Brown became Governor. I was a little surprised to learn of this naming, since Dellums was still living and only left office a few years ago. Usually federal buildings were only named after dead

politicians. I went through the security screening, removing my belt and shoes before being let through. Even the lawyers have to do that. Security's a lot tougher here than in the state courts.

I made my way to the courtroom that Bert had texted me and milled around in the hallway along with a smattering of lawyers. I was quite a bit early. I looked around for Bert and didn't see him. Then I noticed that some of the "lawyers" weren't lawyers. Some were reporters, talking on the phone to their stations or newspapers, or fiddling with their makeup. Cameras weren't allowed inside, but you could be sure they'd be doing a standup on the steps afterward. You could almost feel the feeding frenzy. I didn't know what else was on the calendar, but I figured the main attraction had to be Woody's case.

After fifteen minutes the hallway was packed. The courtroom door wasn't open yet, which is typical, and there are only a few benches in the hallway, so the lawyers have to stand around for half an hour or so on marble floors in their wingtips or high heels holding heavy litigation bags. And you thought we had it easy. This wasn't a trial court, though; this was a Magistrate's court, so there were only the regular briefcases, no litigation bags.

Initial appearances are handled by United States Magistrate-Judges. They used to be called U.S. Magistrates, but the "Judge" part was added on a few years back. It's like grade inflation in the schools or title inflation in the workplace. They're still the hired help. They'll always be just magistrates to me, lawyers hired by the courts for fixed-year terms to do the petty stuff. It's only the United States District Court Judges who have lifetime tenure. Which is not to say the magistrates are without power. They can try many types of cases like civil cases or misdemeanor criminal matters and can set bail or release prisoners. Or not. That was going to be the important decision for today, I knew.

I knew the magistrates in San Jose where I spent most of my career, but I'd never had any dealings with the ones up here in Oakland and had no idea what to expect. Some are hard-asses, some are pretty lenient. I usually liked the former when I was in the FBI, but today I was rooting for one of the softies.

The doors opened and we all filed in. I took a seat halfway toward the front, which was as near as I could get what with the reporters rushing in. My eyesight is mediocre at best, so I wanted to be close enough to see body language. I realized Bert was already seated in the second row as were some other lawyers. He must have been let in through a side door. He'd probably been consulting with his client in the holding area. I tried to catch his eye, but he was talking to the attorney next to him, a young black woman in a tasteful olive-green suit. Her large, round eyeglasses would have given her a studious look were it not for the scarlet frames. She was probably an associate in his firm, I guessed.

The bailiff told us to rise, and the magistrate walked in and sat down. He was a Hispanic male around forty and, to me anyway, looked pretty dapper. He had starched French cuffs with sparkly gold cufflinks and one of those shirts with the white collar and colored body barely visible under the robes. A gold pin ran

behind the knot of his tie through the wings of the collar. His hair looked styled, too. His glasses had a gold-colored frame and I'd bet he had another pair with silver frames for the days when he wore his silver cufflinks and stickpin. To round it out, he had a very neatly trimmed mustache, still jet black, which may or may not have been natural.

This morning was a criminal calendar so the bailiff brought out the first batch of prisoners and seated them in the jury box. There were five, all in orange jump suits. None of them was in handcuffs. A stout female deputy marshal stood by the jury box and I noticed the largish bailiff kept his eyes on the jury box, too. I knew from experience that at least two more marshals were right outside in the prisoner holding area.

Two of the cases were extradition matters. When a criminal is arrested by the feds in a state different from the one where he is wanted, there's a process required to get him back there to be tried. Since the arrest is normally on a federal charge, unlawful flight to avoid prosecution, that federal charge has to be dropped and the judge has to release him to the local authorities. You'd be surprised how often the local authorities don't have the money or inclination to send an officer out to accompany the fugitive back, especially if it's on the other side of the country. Sometimes they're just let go. That doesn't happen very often, but it gives the defense lawyer some leverage to try to work out a deal with the prosecutor long distance. Most of the time, though, extradition is waived by the defendant and he is just sent back. I never did understand when the Marshals transport them and when the locals have to do it.

The next case was a non-violent drug defendant who'd violated the terms of his pre-trial release. The court had to decide what sanction to impose on him. This one was easy. The magistrate simply raised his bail to three hundred thousand, which meant he was going to be languishing in jail until trial. The last two cases were disposed of just as quickly. Those prisoners were led away. A couple of attorneys left, but the other lawyers for the first defendants stayed, probably because they were public defenders who had more clients on the calendar. Still no sign of Woody.

The magistrate made eye contact with Bert and an AUSA on the prosecution side of the room, a thick-set bottled blonde pushing forty named Sheila Morrissey. I knew her only vaguely from when she had come down to the San Jose office to prosecute a case one of my squad members had worked on. I hadn't liked her, but she got a conviction and seemed competent enough. The magistrate stood and headed for his chambers; Bert and Morrissey followed. Apparently this had all been choreographed ahead of time. They must have realized this was going to be a hot potato. They were only in chambers for three or four minutes and then resumed their places in court, this time with the lawyers up at the front tables.

Woody was led out by the marshal. He was not in cuffs and, unlike the other prisoners, was wearing a nice suit and tie. I realized that this must have

taken a great deal of persuasion on Bert's part. Woody was there on murder charges, after all. The violent defendants were always in cuffs and jail jumpsuits in my experience, except at trial when a jury was present. Bert must have brought the clothes from Woody's apartment and gotten him changed in the holding area. No doubt the marshals were sympathetic to an FBI agent, but I doubt they would have allowed it without the magistrate approving it.

The courtroom was abuzz with murmurs and a flurry of note-taking. I saw two sketch artists begin to draw on their pads. Cameras weren't allowed.

The magistrate had the attorneys state their appearances and identify the defendant as being present. Then he read Woody his Miranda rights and asked if he understood, which is your coals to Newcastle situation if there ever was one. Woody had read those rights to scores of defendants himself. Woody answered with the single word "yes" as Bert had no doubt instructed him. No backtalk or sarcasm. Next came a litany of other rights explained, followed by an acknowledgment every time from Woody that he understood.

The judge informed Woody of the charge on which he had been arrested, the murder of a federal officer, and asked if he understood. Again a "yes." After that he asked if the defendant waived time. Under the constitution a defendant has a right to a speedy trial, which has been interpreted as meaning within forty-five days from the date of arrest. The defendant has an absolute right to a trial within that time, but defense lawyers almost always urge their clients to waive that right, meaning give it up and allow the trial to take place much later. That's because the defense nearly always needs the time to learn about the case and prepare a defense. The prosecution already has the evidence and is usually ready to go to trial quickly. However, if the defendant is in custody and not let out on bail, something likely in a murder case, it may not be in the defendant's interest to sit in jail for a long time.

Bert asked the magistrate if they could address the issue of bail first. It was obvious that if he could get Woody released on bail, then he'd waive time. If not, he'd have to leave it up to Woody. Morrissey objected and said the court was entitled to an answer on waiving time first. The magistrate deferred to Bert's request and said he would entertain argument as to bail. That was good. He wasn't a pushover for the prosecution.

Bert immediately requested that defendant be released on a reasonable bail, something along the lines of twenty thousand dollars. He emphasized the fact that Woody was an FBI agent whose integrity and trustworthiness had been proved to the federal courts for years, that he had no criminal record, had strong ties to the community, had cooperated fully during arrest, and would surrender his passport and agree to monitoring with an ankle unit.

"That's preposterous, your honor," the AUSA objected. "This is a murder case, not shoplifting. The defendant is unmarried and does not own a house or other substantial property in the area. He has family and friends in several other states and Canada. He's facing life in prison, potentially even the

death penalty if the U.S. Attorney should choose to seek it. We request that the defendant be held without bail.”

With that, a collective gasp rumbled through the gallery. This was the first official hint that it could be a capital case. This was also my first glimpse at some of the facts.

“Your honor,” Bert replied hotly, “that’s outrageous. The defendant can produce dozens of witnesses, fellow agents and AUSAs who have worked with him, who will vouch for his character. If he’s left in prison, his life is in danger. I’m sure you can appreciate that an FBI agent is not a popular person among other inmates. It would be a hardship on the prison system as well as my client if he had to be kept segregated from the general population. He has a girlfriend who lives here and is employed by the FBI. He’s not a flight risk because there’s no crime here. This is a simple shooting accident during a firearms exercise, one still being investigated by the FBI. There’s no evidence of any motive for a homicide.”

I was learning more every minute. I wondered who the girlfriend was. It looked like the accident story was going to be the one they were going with, although I was at a loss to understand how that would hold up if the “Die, sucker” quote on the news was true.

The magistrate looked over to the AUSA who cracked a thin smile. “The government will show that motive is strong in this case. That so-called girlfriend in fact was dumping him in order to date the victim in this case, Jermaine Logan.”

The courtroom exploded in noise. Reporters began rushing from the room to be the first with this scoop. The magistrate hammered his gavel hard enough to nail sheetrock.

When the commotion died down enough for proceedings to continue, the magistrate said he’d heard enough. The defendant would remain in custody for now, but a bail hearing was set for the Wednesday of the following week. Bert said the defendant was not waiving time. I knew it could always be waived later, but it couldn’t be “unwaived” once on the record as waived. For now, at least, if I took the case, I’d have to work fast.

The magistrate asked Morrissey if an indictment could be expected by that time, in other words, would she be presenting this to a grand jury and filing formal charges. So far Woody was just being held on probable cause based on a criminal complaint from one of the agents who had arrested him. I also knew that obtaining indictments were like taking candy from a baby. The AUSA could get an indictment at will and could always get a superseding indictment later, too, if she decided additional charges were warranted. That would trigger a new bail hearing and time waiver.

She said she would be presenting the case to a grand jury but that a formal indictment would probably not be ready at that time. Once the indictment came down, there would be an arraignment, meaning another hearing. I figured

she probably wanted to have as many hearings as possible so that she could appear before the press every week or so. She wanted to taint the jury pool if she could.

Woody was led out again and Bert stayed behind until the courtroom cleared out a bit. More than half the people, mainly reporters, were now gone. I caught his eye when he did start to come down the aisle and he leaned over to me and whispered for me to meet him at his office four blocks away after the reporters were gone. I realized that he was going to face the press gauntlet on the steps and he didn't want me to be seen there. So far as I knew, no one had recognized me, but I've been in the headlines a few times recently in connection with those murders I mentioned. My name had been cleared, but it would still be a juicy wrinkle for the crime analysts on the news to speculate about. He didn't want Woody publicly associated with me. It bruised my ego for a moment, but I realized I'd probably have done the same thing in his shoes. I nodded my agreement.

A smart lawyer can keep a killer out of jail.
Mario Cuomo

Chapter 4

Bert's firm occupied the seventh and eighth floors of a high-rise three blocks from Lake Merritt. I got there before he did so I was invited into a reception area that overlooked the lake. I've always enjoyed Lake Merritt. I used to run there. At one point earlier in my career, when I worked in San Francisco, I lived in the Oakland hills.

The lake is unusual in that despite being in the heart of downtown and a half mile from the bay, it's a tidal lagoon, connected by a channel to the inner harbor between Oakland and the island of Alameda. It was also the very first wildlife refuge area in the United States. It has an excellent flat, traffic-free running path around its perimeter that's almost exactly three miles long, which makes it ideal for those serious runners who train at specific distances. As I gazed out the window I was mentally reliving some of my runs there when Bert called my name.

"Cliff, thank you so much for coming," he said, grasping my hand warmly. "I realize it's a bit of a commute for you. Please bill me for your time. I'm sorry I'm late. I had to make a press statement outside."

"No problem. It's good to see you, too, Bert."

"Follow me to my office, will you. I'm afraid I have to get right to business today. I have a very tight schedule and it didn't get any easier in court today."

I followed him down a long hallway to his office, a spacious corner office with a nice view of the lake. En route he stopped to introduce me to the young associate with the red glasses; her name was Louise Dern. Up close I noticed she had one eye that aligned itself slightly inward. This, with the brilliant red glasses, gave her appearance a hint of craziness. We exchanged brief pleasantries. She'd graduated from Berkeley Law School two years earlier, I learned.

Bert's office was decorated in a modern, sterile style in different shades of gray. No sooner had that fact caught my eye when Bert commented, "Fifty shades of gray, right?" and laughed. I fumbled for a reply for a second and before I came up with one he added, "Everybody says that."

"I guess I'm too virtuous to have familiarity with such cultural references," I replied in my best mock-offended voice.

"You? Don't make me laugh. So what did you think of the hearing?" he asked as he motioned for me to take a seat on the sofa. He sat in a plush chair facing me. Both were upholstered in gray, of course.

"That was a good move getting Woody into a suit and tie. How in the world did you manage that?"

"The magistrate was an AUSA back when I was. He likes the Bureau, too, but it was still an uphill fight. Sheila objected strongly."

"I can't say I'm surprised. She wants the jury pool out there to see him in a jail jumpsuit. He looks guiltier. And any AUSA is going to object to bail for a murder suspect."

"True," he replied, but didn't say any more, waiting for a better answer from me to his question. In truth, I was avoiding it, but knew I had to come out with my unvarnished opinion. There wasn't any point in being here otherwise.

"Okay, you asked, so I'll answer, but don't get mad. I don't think you're going to get him out on bail. Murder is murder. And what I heard in there didn't make me want to take the case. So far he's looking pretty guilty."

"Look, don't jump to conclusions, especially not based on anything an AUSA says."

"I'm not concluding anything. I'm just telling you how it looked to me. We'll see how the evening news plays it, but I think you're starting from a deep hole. Is that true about the girlfriend dumping him?"

Bert hesitated and raised his eyebrows. Always the actor, he had the ability to convey extreme surprise with his very expressive eyes. The brows were thick and dark and seemed to take forever to reach their peak halfway to the ceiling. He was nearly bald, with only a few lonely strands huddling on top, although he once referred to it as a "high forehead." If it was any higher it would extend to the nape of his neck.

"That was the first I heard of that. I'll have to ask him about it, of course. I only had twenty minutes to talk to him yesterday and we couldn't talk in front of the marshals today so I only got the basics about the shooting. We have a lot to talk about. I'll see him tomorrow and get the whole story. He did say ..." and then he stopped. "I can't really go on until you make a decision, Cliff. You have to be in on the attorney-client privilege."

"Bert, I told you I'll treat it as privileged. I can't make a decision without knowing more about what really happened. I want to talk to Woody."

"I'll tell you what happened. You don't have to hear it from Woody. He was out at Santa Rita at firearms and they were running an arrest scenario in the barracks. I haven't been there, but you probably know how that works. They were running it with their guns unloaded. Everyone checked his neighbor's gun and they were told that were no loaded weapons in the exercise, period. They even made everyone empty their pockets so no one could have any ammo. During the scenario, Woody was chosen to play one of the fugitives. He was taken into custody by another agent. Then, as he was being led out the door, he turned and knocked the arresting agent off balance and darted away into another room. There was a bag on the floor and he spied a gun in it. He pulled it out thinking it was part of the scenario, and when Jermaine appeared in the doorway walking the other fugitive out, Woody sprang forward and pulled the trigger, expecting only a click. Instead, there was a bang and Jermaine fell down

bleeding. Woody dropped the gun in shock. There was confusion. One of the agents called 911. Another one with some EMT training administered first aid. Jermaine was still alive when the ambulance arrived, but he bled to death on the way to the hospital.”

“When was Woody arrested?”

“Not right away. He was standing there, mouth open like the rest, saying it was an accident. Two agents led him over to another room in the barracks. They were trying to calm him down, trying to tell him not to worry, asking if he was all right, if he needed some water, like that. They kept him away from Logan and the hallway where it happened. It wasn’t until after the ambulance had left that the head firearms guy, someone named Bobu, came in and talked to one of the agents with Woody. Then Bobu told Woody that the SAC had ordered that he be arrested. Woody was shocked but compliant. He said he’d go peacefully but they handcuffed him anyway and drove him to the FBI office in Oakland.”

“Did Jermaine say anything when the shot went off? Or Woody?”

“I don’t know, other than what I just told you. Woody was in a fog after the shooting and doesn’t remember clearly. That’s why I need you. I need to know what actually happened out there. I need the real story.”

“On the news last night they said that someone overheard him saying ‘Die, sucker’ when he pulled the trigger. Is that true?”

Bert sighed and looked at the ceiling. “I was hoping you hadn’t seen that. It might be true. I really don’t know. Woody said they were all joking around during the exercise, like kids playing Cops and Robbers.”

“And the gun? Whose was it and how did it get there?”

“I don’t know and neither did Woody. I’m sure the FBI knows. I don’t want to have to wait for formal discovery. I need you to find that out now. That’s why you’re the best choice for my investigator. You know people in the FBI.”

“I don’t know, Bert. I want to believe Woody is innocent, but it’s not looking that way to me. It would be taking me away from my family now when Ellen needs me around home. Then there’s the finances. I’d work for free for Woody if I was sure he was innocent, but I have a secretary, an office, and expenses to cover.”

“I understand. Woody doesn’t have the money to pay you your regular rate. I’m trying to find someone to start a fund-raising effort among his friends and fellow agents. His father’s deceased, his mother has Alzheimer’s and is in a home somewhere, and he has no brothers or sisters. Current employees have been ordered not to talk about the case, I’ve learned, so I haven’t had any luck getting anyone to take my calls. Maybe that’s something else you could look into. You could get paid that way.”

“I think I can put you in touch with someone who’ll help you. Let me ask you ... are you doing this pro bono?”

Bert averted his eyes for a split second. "My firm wouldn't allow it. It would be great publicity, but the costs are going to be more than what we can afford now. We had a bad quarter and ..."

"Did you ask your partners? Did you tell them you'd work for free?"

"Cliff, there are plenty of high-quality firms that wouldn't touch a case like this. The solo practitioners down around 7th and Broadway would take it, but to them it would just be another perp to make a buck off of; they'd press for a plea bargain and be lost in federal court if it went to trial. The firms with experience in federal cases do mostly white collar, immigration, and drugs, not murder. I really had to go to bat for Woody to get my firm to agree to take the case."

This answer told me a lot. Bert had avoided my question. He obviously hadn't volunteered to work for free and probably hadn't even brought up to the other partners the idea of doing the case pro bono. If he'd thought Woody was innocent, the Bert Breen I knew would have done the case pro bono with or without his partners' agreement. That meant he thought Woody was guilty. His partners probably agreed to this case only because an FBI agent might make enough money to pay their legal fees, at least if they could get a fund-raising campaign going. I decided I wasn't going to take the case, but I didn't want to tell him right then. He'd just keep arguing with me why I should. It's easier to say no on the telephone.

"I tell you what, Bert. I know who the FBI Agents Association chapter president is. He'll be the one to start the fund-raising. Woody's a member, I believe. I can't guarantee how much they'll raise since Jermaine was a fellow agent and probably an FBIAA member, too."

"FBIAA? I've never heard of that."

"It's basically a union."

"I thought federal agents couldn't have a union."

"They can't. That's why it's an 'association.' They don't have collective bargaining power, but they provide members access to legal advice and raise money for agents' families during disasters, stuff like that. They don't have the clout of a union. Most agents belong to it. I'll put you in touch with the local rep. As for taking the case, I'll have to think about it overnight and talk it over with Ellen. I'll let you know tomorrow."

"You gotta do it, Cliff. You're his best hope."

"I know he has a great lawyer, Bert. That's his best hope. No charge from me for today but I know you're charging by the hour. I don't want to run up his bill anymore, so I'm going to get going." I stood.

Bert stood and thanked me for coming. He walked me to the lobby, insisting the whole way that I really must take the case for Woody's sake.

I left the building and walked out onto the street. It had been years since I was in the area, and now that I wasn't going to take the case, time wasn't pressing. I decided to walk over to the lake. I needed the exercise. Soon I was

there walking the same route I used to run. In my suit and wingtips I wasn't about to run, but I took my coat off and slung it over my shoulder so I could pick up the pace without getting too sweaty.

I enjoyed the walk, but after a mile or so, I decided it was time to head back to the office. I peeled off from the lake and headed southwest, toward the BART line. I was not familiar with the locations of the BART stations in Oakland, but I knew there was one somewhere around Laney College, the local junior college, which was a lot closer than the station where I had gotten off. I figured I could just walk till I got to Laney and then if I couldn't see a station, ask someone. I was already on the east side of the lake, so I walked down 4th Avenue until it dead-ended at East 10th Street. The Laney football field was right in front of me and Chinatown a few blocks to my left. No one was around to ask. If only I'd learned how to locate a station on my smart phone, but I'd only had it a few weeks and was still pretty incompetent with it. I didn't know the Laney campus layout at all, since I'd never been there, but I guessed the main campus must be on the far side of the field. I turned left and walked to 5th Ave. It looked all residential ahead of me, so I turned right and walked toward the freeway on 5th. More athletic fields were to my right. I turned to look through the chain link fence to see if I could get oriented. That's when I noticed two young black males behind me. They made eye contact with me and I didn't like what I saw. My years in the FBI gave me a good instinct about people and these guys looked hostile. This was their turf and I was an interloper, a rich-looking white man in an area not known for ... well, rich white guys in suits. One of the men wore "shorts" that came halfway down his shins, with the crotch halfway to the knees. I couldn't make out the writing on the sweatshirt, but the picture had a skull on it. The other guy was more conventionally dressed: blue jeans, a dark windbreaker, and sneakers that I'd guess were Air Jordans.

I wasn't armed and certainly wasn't looking for a fight. They were both a lot smaller than me but there were two of them and who knew what they had in their pockets. I've never been a fearful type, but I was a firm believer in the old maxim that discretion is the better part of valor. I jaywalked across the street and headed down East 8th Street just to get out of their path. After I'd gone a half a block I turned to look back. They were right behind me and closing fast. I picked up the pace even more, hoping to find some retail establishment with cameras I could dodge into, but I saw nothing. I crossed onto the next block. The area was getting industrial. Across the street was some factory or something, but it was surrounded by a chain link fence topped with razor wire. On my side were some small, older houses, mostly nicely tended, but they also had chain link fences.

The two punks were now calling out "Hey man, you got any spare change?" I knew they weren't following me to get a handout. I had only seconds to make a decision. I guessed that I could find some kind of weapon in the yard of the house next to me, a rock, or tool, or something. Its fence was four feet high and not topped by barbed wire, just the ordinary chain links, but they were cut on

top so the sharp wire ends stuck upward. I stepped to the corner of the yard, tossed my jacket into the yard, put one hand on the fence post, planted one toe as best I could into one of the links, and leaped over the fence. I say leaped, but that's too generous a term. As I threw one leg over, the fabric of my slacks caught on the top of the fence. I fell over the top as my pants leg tore open and the fence left a nasty gash along my leg. Damn! The suit had cost almost a thousand dollars.

For a moment I was out of sight of the men behind me due to a hedge in the yard separating it from the adjacent property. I picked up my jacket and started toward the side of the house, farther out of sight, but had taken no more than two steps before a blue-brown blur threw itself at me in a cacophony of snarls. Instinct and luck saved me greater injury. The hand holding the jacket reached out to block the threat and the pit bull sank its teeth into the thick material. I abandoned the jacket and this time really did leap over the fence in a single bound, no snags. It's amazing what a jolt of adrenaline can do. I landed heavily on the sidewalk, but didn't break anything. I rolled into a crouch. The two punks arrived just at that moment, running now since they had momentarily lost sight of me. One of them, the one in the jeans, was holding a switchblade. They were startled to see me flying over the fence out of the yard since they had just seen me leap the opposite direction.

I gave them no time to think about it. As I came up, I brought one hand up hard between the legs of the knife-wielder, crushing his balls as I grabbed his wrist with my other hand, stopping the attempted stab. He crumpled in pain. The other guy charged at me, head butting my left side ribcage. It didn't hurt much, but it knocked me off balance and I almost went down. I grabbed his sweatshirt with one hand to keep from falling and, as I righted myself, realized he was all skin and bones under the shirt. I grabbed his waistband with my other hand and lifted him in something between a judo throw and a weightlifter's snatch, tossing him over the chain link fence into the yard. The pit bull had been worrying my jacket to shreds, but immediately went after the new intruder.

The knife man was starting to get up so I didn't have time to watch the carnage, but I heard a scream behind me. I took off running across East 8th toward that industrial yard. It's a busy street so I had to watch for traffic, but there wasn't much at the moment. As I looked back I saw knife man on the sidewalk trying to lift the little guy back over the fence, but the pit bull was literally hanging from the punk's leg. It looked like his fangs were deep in the calf muscle.

I saw a line of cars coming my way and stepped one foot off the curb waving at the traffic, hoping to stop someone. I stuck my leg out so that people could see the shredded pants leg. My pasty white skin contrasted nicely with the charcoal gray wool, highlighting the bloody gouge from the fence. The first few cars whizzed on by, drivers, all white, avoiding eye contact, but a battered pickup

pulled over to the curb. The driver, African-American, told me to hop in, which I did, gratefully.

He was a blue collar worker of some kind. He was older than me by a bit, with a pot belly hidden by baggy coveralls. He asked if I needed to go to the hospital, but I said no, just take me to a BART station. He asked me what happened and I told him I'd been attacked by a dog, giving no further embellishment. Fortunately, the scrape was on the top of my thigh, not the bottom, and had coagulated quickly, so I was not bleeding on the upholstery. He dropped me at the Fruitvale station and I thanked him profusely as I got out. I tried to hand him a ten, but he refused.

Fortunately, I'd had nothing in my suit coat. My wallet, phone, and keys were all in my pants pockets. The pit bull now had a new chew toy. I knew it wasn't worth going back later to try to retrieve the jacket from the owner. I rode BART to Millbrae on the opposite side of the bay, changed to CalTrain there, and rode the commuter rail to Mountain View where I had Maeva pick me up.

Murder is born of love, and love attains the greatest intensity in murder. Octave Mirbeau

Chapter 5

I stopped in the office long enough to check messages, return some phone calls, and look at my snail mail, but I needed to change, so I called Ellen to see if she could pick me up. I gave her the short version of the story over the phone and she scolded me for not knowing how to look up the location of the BART station on my phone, for dragging my feet on getting another car, and for two or three other things I no doubt deserved. She came and picked me up.

Once I finished changing she insisted on leaving me with Tommy while she went shopping. It was so much quicker and easier without him, she said a few thousand times until I agreed. Like I had any choice. As I said, this fatherhood thing was going to take some getting used to.

I played peek-a-boo for a bit, then had to change a diaper. I was getting good at this. Fortunately for me, he quieted down after that and I had a chance to go online. The local news outlets already had stories or teasers on their websites about the case. The stories didn't tell me anything I hadn't already seen or heard myself, but the teaser for one television channel showed a still shot of Sheila Morrissey standing on the courthouse steps and there was a photo caption that said prosecutor Morrissey called the defendant a "rogue agent."

I couldn't believe my eyes. I knew the U.S. Attorney's office wouldn't condone such a statement. Federal prosecutors do their talking in court, not to the press, at least on active cases. They aren't elected like district attorneys. I also knew that reporters, whether print, TV, or other, get it wrong at least as often as they get it right, and they err on the side of sensationalizing the news. The website said the "trial" would be covered in the six o'clock broadcast. There you go – it wasn't even a trial. Woody hadn't been formally charged yet, much less put on trial. I forget who once said that newspapers were only good for lining birdcages and wrapping fish, but the same applies to online news sites, too, except for the part about actually being useful for something. I logged off, but I wanted to see whatever footage there was of Morrissey with the reporters, so I planned to get home early enough to watch the six o'clock news.

Since it was after two and I hadn't had lunch yet, I fixed myself a sandwich and a glass of milk. As soon as I took my first bite, the rumble of the garage door opener signaled Ellen's return. Tommy started bawling just as Ellen walked in, grocery bags in each hand. She gave me a dirty look like what was I doing sitting there eating while my son was crying. I jumped up and offered to carry in the rest of the groceries. She told me curtly that they were in the car and went in to see about Tommy. When I got back in the house she was nursing him. I went back out and finished getting the rest of the bags. I put the perishables in the refrigerator and went into the other room to talk to her.

"I changed his diaper," I said brightly, hoping that would get me some brownie points. She looked unimpressed.

"Congratulations," she replied. "So did I. Three times today so far."

Hmm. That tactic wasn't going to get me far. "I just saw online that the AUSA in Oakland called Woody a rogue agent," I said, changing the subject.

"I heard that on the radio. I listened in the car. That's outrageous! He's a good agent. If this was jealousy, it's still murder, but he was a good agent." She was getting heated.

"I know," I agreed, but more significant to me were two things she had said. She mentioned jealousy and she had used the past tense. The past tense told me she thought his career was over no matter what else may happen.

"Where did you hear about it being jealousy? Were he and Jermaine both seeing ..."

"No. I don't know anything about that. It was just on the radio. The prosecutor said in court his girlfriend had dumped him."

"Oh." I had heard that, too, of course, but I was hoping Ellen might know something about that through Bureau gossip channels. "Do you know who it was he was dating?"

"Dating?" You're a dear but you *are* an old foggy, aren't you. People don't 'date' anymore. They're 'in a relationship' or they're 'seeing each other' or 'together.' All I know is that someone told me he saw Woody last summer at the FBIAA white water rafting trip with the secretary from the Hayward R.A."

"Do you know her name?"

"I think it's Bonnie or Connie or something like that. I haven't met her."

This was helpful. The Hayward Resident Agency was located about halfway between San Jose and Oakland. It's too small to have its own supervisor, so the agents there report to squad supervisors in San Jose. San Jose agents, like Woody, sometimes filled in on Hayward area bank robberies and so forth. Woody probably met the secretary on one of those occasions.

"Do you know anything about her?"

"From the way the guy told it, I guess she's good looking." She gave me an accusatory look. "You know how men are."

"Hey, don't give me that look. I didn't do anything. Bert didn't know her name and was asking me. I'm just trying to help."

She switched Tommy to the other side and, for the first time since getting home, she smiled slyly. "I know, I know. I'm teasing. But are you taking the case? Because I can't be your Bureau source. And you shouldn't be telling me what Bert told you."

I knew she was right on both counts. "I'm going to turn him down. I think it would take me away from home too much and I probably wouldn't get paid. And with you not working now ..." I didn't say anything about my thoughts on Woody's guilt but she knew me too well to buy my excuses.

“Whoa. Don’t put this on me. We have enough money. You like Woody as much as I do. You must think he’s guilty or you’d be doing it for nothing.”

This was the same logic I’d used with Bert Breen, so I could hardly argue. Now she was the one fishing. “I don’t know what to think,” I told her. “But I know he’s not a rogue agent.”

She sat quietly for a long beat, obviously enjoying the mother-child bonding, and then replied, “Cliff, you’re gone all day anyway. I know you have to work. Someone has to support the family. It’s your decision, but Woody deserves a defense. Even if it was murder, maybe it was second degree, not first. Or even manslaughter. Maybe Jermaine said or did something to provoke him. Someone’s got to find out all that. Agents aren’t going to talk to Breen, you know that. He’s needs an investigator agents will talk to.”

“And you think that’s me? Even Gina wouldn’t talk to me about the details.”

“Yes, as a matter of fact, I do. Cliff, people in the FBI know you and respect you more than you think. You were an agent’s agent.”

The words gratified me more than I would have thought, but I knew they were coming from my wife. She wasn’t exactly an objective source.

“I’ll have to think about it some more.”

I finished my sandwich and left for the office. I spent the afternoon returning calls and handling bills and other office business, but kept thinking about Woody’s case. Maeva left for the day at five and I was shutting down my computer, ready to leave for home, when I got a phone call from a woman identifying herself as Mrs. Leung. She asked if I was Cliff Knowles and I said I was. She had a strong Chinese accent, so I had a bit of trouble understanding her, but eventually I realized she was the homeowner of the house in Oakland where the pit bull had gone after me. She asked if the coat was mine. I told her it was. She asked if I wanted it back. I asked her if it might be repairable. She said she didn’t think so; it was in shreds and soaked in blood. I figured the dog must have gone after that skinny punk pretty good and then chewed on the coat with a bloody mouth. I told her no, that it was useless, and she could just throw it out; then I asked her how she got my name. She told me there were cards in the pocket. Of course! I always kept a few loose business cards in the outside pocket to hand out. I thanked her for calling and we both hung up. I figured that when she saw I was a lawyer she had probably been worried I’d sue her over the dog attack, seek medical expenses, maybe a new suit, but I had no such intentions. The pit bull was vicious, but it was fenced and technically I’d been trespassing. Her dog had saved me from the muggers. I was glad I could relieve her of any worry along those lines. That’s what I thought at the time. I must be losing my edge. I didn’t see it coming.

When I got home, Ellen already had the TV on. I gave her a kiss and went into the bedroom to empty my pockets and put on some slippers. The news wasn’t on yet so I had time to wash up and watch Tommy. Ellen came over and

asked me about my torn pants. She hadn't realized why I had to change clothes when she'd seen me earlier in the day. She had assumed I had just come home to change out of my suit to change into something more comfortable. The short version of events I had given her had glossed over the part about the pit bull and the fight. I'd only told her two punks had followed me and I'd had to hitch a ride to the station to get away from them. So I had to explain about hopping the fence and snagging my pants, and about the pit bull and my shredded jacket. I didn't mention anything about the one mugger pulling a knife. I was more afraid of the tongue lashing I'd get from her than I was of the punk.

"That was your new suit wasn't it? The Hugo Boss?" she asked.

"Yep. Over nine hundred bucks down the drain."

"Great. You haven't even taken the case and you're already in the hole a grand. How's your leg? I saw the blood."

"Just a scratch. Hardly any blood. I've been through a lot worse," I chuckled ruefully. I'd been attacked by a mountain lion once when hiking in the hills. It had taken over four hundred stitches to close all the wounds on my legs, and I had the scars to prove it. The pit bull hadn't even drawn blood. It had just been the chain link fence.

We heard the pretentious horn fanfare coming from the TV that announced the local news show was starting. We went into the other room to watch it. There was a big apartment fire in San Francisco with good video, so that was the first story. Then came a double homicide in Richmond at a high school, and after that, a spectacular car crash on Highway 101 that also had good video, followed by a commercial break. If it bleeds, it leads. We were both getting impatient for Woody's case. It was the first one after the break.

The anchor said there had been new developments in the case of the FBI murder as it was now being called and went to the same woman reporter in front of the federal courthouse in Oakland. When she said that Agent Braswell had appeared in court to face charges, a sketch of him appeared on the screen standing in the courtroom next to Breen. Woody actually looked quite handsome in the well-tailored suit. He was a good-looking guy, with broad shoulders, chiseled cheekbones, and a strong chin. I reflected again how smart Bert had been to get him into a suit. Breen looked especially tubby and balding in the drawing.

The screen went back to the reporter. She said that Woody's lawyer had asked for him to be released, then dropped the shocker: the prosecutor had objected and said the case was potentially a death penalty case. The male anchor repeated the words "death penalty" in a rehearsed gasp, then asked the reporter when the last death penalty case was tried in the Bay Area. She replied that the court regulars she interviewed didn't know, it had been so long. She went on to report the statement that Sheila Morrissey had made in court about Woody's girlfriend dumping him. The anchor asked her then if the prosecutor's theory was

that the defendant killed the victim in a jealous rage. She replied that it seemed so. The girlfriend was not identified in any way.

The screen switched back to the anchor. Behind him was a graphic that kept rotating slowly through the sketched courtroom picture of Woody, his football picture, the FBI seal, a picture of Jermaine wearing a mortarboard, and the words "Death Penalty." The anchor said there had been reports that the prosecutor had called Woody a "rogue agent." The reporter told him to "take a listen" and rolled a video clip of Sheila Morrissey on the courthouse steps. Reporters were shoving mikes in her face and peppering her with questions. She kept replying that she had no comment, that the government would make its case in court, not the media. Then when someone asked her how she could prosecute an FBI agent vigorously when she works with them every day, she took umbrage and stopped.

"The FBI is full of dedicated public servants who put their lives on the line every day for all of us. I have nothing but the utmost respect for the FBI, for their honesty and integrity. But no one is above the law. Any large group of people can have one or two bad apples, someone who goes rogue in a moment of rage. I'm not talking about this case specifically. It could be bankers or butchers or the FBI or anyone. I'm just saying that the U.S. Attorney's office will treat everyone the same. No special treatment will be given to this defendant or any defendant. Remember the victim was an FBI agent, too." With that she pushed her way through the crowd to the nearby building housing her office.

"What a load of BS," Ellen exploded. "One or two bad apples. Going rogue. That's supposed to reassure the public?!"

I was steaming internally, too, but was more interested in the legal maneuvering. The earlier report had exaggerated, as I had expected. Sheila had not called Woody a rogue agent, although she'd come as close as she could ethically. She claimed not to be talking about this case specifically, but of course she was. This was an attempt to taint the jury pool, without a doubt. He knew Morrissey had violated the U.S. Attorney's office guidelines in saying as much as she did. The rules were clear: "no comment" to any press inquiry until the trial's over. Then I realized that the reporter was talking to a demonstrator, one of those sign-carrying folks I had to bull my way through, and I'd missed the beginning.

I grabbed the remote and rewound to the start of the interview. The interviewee was a fat black woman with a sign that said "Black Lives Matter."

"What was your reaction when you heard the defendant might face the death penalty?" the reporter asked.

"Jermaine was cut down in the prime of his life. He deserves justice," the woman answered.

"So you believe the government should seek the death penalty?"

"A black man can't get a fair trial in this country. The death penalty is always used against blacks. It's racist."

The reporter looked confused. “So does that mean you think the government shouldn’t seek the death penalty?”

This time it was the woman who looked confused. She fumbled with her words for several seconds then replied “Black lives matter.”

The reporter, black herself, of course, pressed her further, “Are you talking about the victim or the defendant? They’re both African-American.”

The woman looked even more confused. “All black lives matter,” was all she could say. The reporter turned it back to the anchor who went on to show a cat video that had gone viral that day.

I could see this case was going to give the left-wing fits. From their point of view it was a black defendant accused of killing a law enforcement officer, so of course it was clearly a case where they’d be on the side of the defendant against the racist establishment seeking the death penalty for the black defendant. On the other hand, it was also an unarmed black man gunned down by an FBI agent, so of course they wanted the agent convicted and wanted the maximum possible sentence. It could get interesting.

*Friends show their love in times of trouble, not in happiness.
Euripides*

Chapter 6

The next morning Ellen dropped me off at work. My first order of business was to rent a car. Ellen and I could go shopping for a car later. I needed something now for my everyday work and so did she. With traffic once again reaching dot com boom proportions in Silicon Valley, I decided I had to get something with a carpool sticker, either an electric car or hybrid. I settled on a Prius plug-in hybrid. This would allow me to use the HOV lane while driving solo. I made the arrangements by phone and the rental company delivered the car to my office.

I called Bert to give him the bad news, but he wasn't in and I didn't want to tell him in a message, so I just told his secretary to have him call me. I went about my regular business for the next couple of hours, reviewing some background records Maeva had dug up on a candidate for an executive position at one of our corporate clients. Woody's case kept nagging at me, though, and I realized I hadn't contacted the FBIAA rep.

I found the number for Rick Porillo, an agent in the San Jose Resident Agency. He'd been the FBIAA rep there for at least the last eight years, so I'd worked in the same office with him, but he hadn't been on my squad. He was nearing retirement, I knew, and I hoped he'd be willing to talk to me. In my experience, FBIAA reps, including Rick, were screw-ups who were in constant danger of being fired. They became vocal reps, castigating the management's policies and disciplinary actions primarily so that when they did finally get fired or disciplined themselves, they could claim it was for being a whistleblower or for criticizing the management. In addition to being lazy, Porillo had a drinking problem, but at least he was someone who didn't mind breaking the rules.

I got him on the first ring. We'd never been good friends, since I'd been a squad supervisor, meaning management, but we'd never had any run-ins, either. He was cordial enough when he realized it was me. I decided to be a bit circumspect since I didn't know how the feelings ran in the R.A.

"Rick, I was wondering if you're the guy I should talk to about contributing to any funds for Jermaine's family or for Woody's defense."

"You're a good man, Cliff. I'm running the fund for Woody's defense. Jermaine was single with no kids and the Bureau's picking up the tab for the memorial service since he was killed in the line of duty, so there really isn't much need for a fund for him. His parents don't need it; they told me to have donations sent to the fossils scholarship fund."

I knew the "fossils" referred to the Society of Former FBI Agents, better known as "the Society." Unlike the FBIAA, it was officially recognized and sanctioned by the FBI. It was funded by retirees and had tax-exempt status. I was

a member. I thought it amusing that Rick called it the fossils since he would be joining it in another year or less.

"I'd like to contribute to Woody's fund. I'm sure it must have been an accident. I heard he got Bert Breen as a lawyer. He can't be cheap."

"Yeah, I guess. How much did you want to put in?"

"Oh, a hundred bucks or so."

"Don't be a cheapskate, Cliff. You hit it big with that lawsuit, didn't you?"

That's just like Rick, crass as a Seth Rogen movie. My wife is killed by a drunk driver and he thinks of it as "hitting it big." I was offended but knew any retort I made would have no effect on Rick. He was what he was. "So what's the balance up to now?" I asked.

"Not much yet. Some people are worried that giving to Woody would be a betrayal to Jermaine."

I didn't doubt his statement, but I was irritated that he didn't give me a straight answer. "So is it at the Bank of America, like usual? How do I make out the check?" Funds for disasters and such occasions were always at the B of A. There was some sort of ongoing relationship there where the bank made the accounts free for our charitable causes.

"Uh, you can just make it out to me. I'll see that it gets to the right place."

Whoa. This wasn't right. I didn't suspect Rick of trying to divert the funds for his own use, but there was always a bank account set up. "To you? What happened to the B of A?"

"What are you suggesting? I told you it'll get to the right place," he said, taking offense, or trying to sound like it.

"Come on, Rick. I'm not suggesting anything. But I know that's not the way it's done. There's always a bank account."

He backed down quickly. "Yeah, I know, but here's the thing. I haven't actually gotten any money yet. A few of the people in the R.A. have said they'd like to contribute, but nobody's coming forward until someone else does. I can't start the account until I have a check in hand to deposit. I think they're mostly waiting until they can tell if he's guilty or not. Nobody wants to fund the defense for an agent murderer."

"What about your own contribution? You think it was an accident, don't you?" I asked.

An uncomfortable silence followed. "See, that's it. I'm not so sure it was. One of the guys who was there said Woody stuck his gun right in Jermaine's gut and yelled, 'Die, cocksucker!' as he pulled the trigger. I mean ... I don't know what to think." I wasn't surprised the news report had dropped the word "cock."

"You said 'his gun.' I thought they were using red handles." Red handles were guns that had been retired from service and altered so that they couldn't fire. The barrel was plugged with molten metal, the firing pins broken off, and

the handles painted red so that everyone knew they were safe. The FBI Academy at Quantico used them for exercises such as the one Woody and Jermaine were in, but they were rarely used in the field. There weren't anywhere near enough of them for all the field offices. From what Bert had told me, they were all using their own service pistols, but those had been unloaded and verified by another agent. Besides, he'd been disarmed during the exercise, according to Bert. I didn't want Rick to know that I was aware of any of this, which is why I had made my remark about red handles.

"You crazy? Since when has Quantico ever sent us red handles? They were using their own guns. Woody shot him with his backup gun."

"Seriously? His own backup gun? You got that from someone out there?"

"Cliff, I shouldn't be talking about it, really. Just send me the check made out to cash so I can open an account. Once people hear you contributed I'm sure some more will be coming in."

"I will. And I hope you match it. You know guys are always screaming and calling each other names in those exercises. I remember I heard you yell at another agent 'Hands up, asshole!' at one of those exercises once. It's just part of the role playing."

"Yeah, but you know me. I call everyone asshole all the time. Woody's a soft-spoken guy. He doesn't use that kind of language. He sounded like he meant it according to the source."

I thought about this for a moment. He was right, actually. I didn't remember Woody cursing much, if at all. I thanked Rick for the information about the fund and told him again that I'd be sending him a check. Then we hung up. I pulled out my checkbook and wrote out the check. This case was costing me more every day.

I'd gotten some new info and it only made things look worse. If Rick was right about the gun being Woody's, I didn't see how he could be innocent. How could he have shot his own gun by accident after he'd been disarmed? If it was his backup gun, that could explain how it got into the exercise. Such guns are usually small and carried in an ankle holster or other non-obvious place. Woody could have had it on him the whole time while showing his unloaded service pistol to his neighbor. I suppose he might have forgotten about the gun in his ankle holster during the unloading and then later instinctively pulled it out in the heat of the exercise without thinking about it. Something like that had happened to a BART cop, in the now-famous Oscar Grant case that was made into the movie *Fruitvale Station*, where he pulled his service gun instead of the taser he meant to pull. That seemed awfully unlikely to me in this scenario. Bert had said Woody had run into another room and grabbed a gun from a bag.

I asked Maeva to step into my office. I briefed her on the bare outlines of the case and explained to her why I wasn't going to take it. I wanted to let her know that I was still interested in the development of the case and to give calls

from Bert Breen high priority, even though I wasn't going to work it. She seemed very interested and listened to the story all the way through without interrupting. When I finished she began asking questions. I realized this was exciting stuff for her. I'd hired her as my legal secretary after she dropped out of Stanford Law School. Last year she passed the California licensed private investigator exam, but she'd never investigated a criminal case. I'd taken a couple of insurance fraud cases in the early days, which were criminal, I suppose, but we'd just been hired to prove the claim was phony. There'd been no police involved and Maeva wasn't even licensed then. She'd gone with me to a bowling alley as my "daughter" to bowl right next to a guy who was supposedly totally disabled in an industrial accident. He'd bowled a 217 and rode off doing wheelies on his Harley afterward. We got some good film that time. She'd gotten a thrill from that and I could tell she wanted me to take this case.

"What kind of gun was it, that backup thing?" she asked. "I don't know anything about guns. Is it like a derringer?"

"No, agents don't carry derringers. Those are little one-shot popguns that wouldn't stop anyone. Most of the agents I knew who carried backups were the SWAT guys and fugitive case agents, people like Woody. Most of them had five-shot revolvers, either in an ankle holster or sometimes in a pocket."

"What was the bag doing there? Was it Woody's bag?"

"That's a good question. I'm sure Bert will find out soon enough."

"Isn't Woody that agent who helped you that time at the bank robbery, the time you almost got shot?"

"Right. Good memory. That was two years ago."

"Don't you think you owe it to him to help him now?"

"That's hardly the same thing, Maeva. All he did was walk me out of the bank so I didn't have to be questioned by the police. We're talking about hundreds or maybe thousands of hours of pro bono work for someone who killed another agent. I knew the victim, too, you know. Who's going to pay your salary if I take this case?" I smiled sadly, thinking this would be one argument she'd understand. I was mistaken.

"I'll work it for free," she replied. "I'll do the work in my off hours, or if I have to do it during the day, I'll put in extra hours to get your work done."

Oops. There went one good excuse I had for bowing out. Of course, I didn't foresee much investigative work Maeva could do on the case anyway, so her offer wasn't worth much. The problem was my hours. If I wasn't getting paid, the income wouldn't be there to pay her and my overhead.

Before I had time to think of a good rebuff for this offer, the phone rang. It was Bert, I could see from the display, so I asked her to step out again, which she did.

"Bert, thanks for returning my call."

"You kidding? Thanks for calling me back. I was wondering whether I'd hear from you again after yesterday. I got to see Woody at the jail, finally, and heard the whole story at length. I have a lot more details now."

"That's great, Bert, but I have to tell you I won't be taking the case. Things are looking worse today than yesterday. I talked to the FBIAA rep I told you about and learned some more. The rep's name, by the way, is Rick Porillo. I'll email you the contact info. He's starting a defense fund for Woody, but apparently there's some reluctance on the part of agents to donate until they're convinced it was an accident. The fund may not be able to handle your fees, much less mine."

"Let me worry about my fees. What changed? You said it got worse."

"The gun that was used is reportedly Woody's backup gun."

I heard a sharp exhalation of breath on the other end. "Shit. That can't be. There must be a mistake. It was a gun in a bag in one of the side rooms."

"Bert, I hate to say it, but I think Woody's lying. It looks like he wore his backup gun into the arrest scenario exercise concealed somewhere and when he got the chance he shot Logan. He called him a cocksucker, too."

"He told me about that. He said they were all yelling and screaming at each other, agents and the 'bad guys', the other agent playing a bad guy like Woody. The arresting agents were calling them a-holes and the bad guys were swearing even worse. He said that's all part of the scenario, to make it seem more real. He said real bad guys in barricaded positions do that pretty often, so he was just trying to recreate the tension. It wasn't personal about Logan. He said that last year there had been an arrest scenario where Jermaine had been designated a bad guy and he shot the agent and called out exactly the same thing to that guy. Woody remembered that, so he thought it would be funny to use Jermaine's own words against him."

"Hmm. If you can prove that about Jermaine using those same words, that'll help. But it doesn't convince me to take the case." I went on to tell him about the incident with the muggers, the dog, and the suit.

"You dumb shit. I would've had an associate or paralegal drive you to the BART station."

"I know. I wanted to take a walk around Lake Merritt. It's my own fault. I've rented a car, so it won't happen again."

"Take the case and you can expense it. You were here at my request and needed to see the initial appearance for yourself."

"Not gonna happen."

"Cliff, I can take a no answer, but Woody can't. If you're going to turn him down, do it to his face. Don't make me tell him you weaseled out."

"Your guilt trippin' won't work. You told me I couldn't see him."

"He's being held out at FCI Dublin. You aren't a relative or his lawyer. He can put you on a visitor list as a friend, but it'll take a week for the prison to clear you and you can only visit on weekends. If you're his lawyer, you can get

in sooner. Sign on as co-counsel for a week and take a retainer, then you'll be approved. It only takes one day for the prison authorities to check out lawyers and we can visit during the week. It takes longer for family. You wanted to talk to Woody. Here's your chance."

This offer took me by surprise. I did want to look Woody in the eye and have him tell me he didn't do it and hear first-hand how he was going to explain away the problems. To my own surprise, I agreed to sign on as his attorney for one week at half my regular rate. I didn't expect Woody to ever be able to pay it, but maybe I could get back a piece of that hundred bucks I donated if the defense fund builds up.

FCI Dublin is the Federal Correctional Institute in Dublin, a small town in the East Bay where Santa Rita Jail is located, right next to where the shooting took place, at the adjacent sheriff's gun range. There's also a bomb range run by the Alameda County Sheriff. The FBI leases training time there from the sheriff's office for both firearms and bomb matters. So does the television show *MythBusters*. The whole complex is located on what used to be Camp Parks, a staging area for troops being sent overseas during World War II.

I would have to wait to get on the approved visitor list, but now that I'd agreed to work the case for a week, I asked Bert what he wanted done.

"Can you interview the girlfriend for me?" he asked.

"If she'll talk to me. Do you have her name and contact info?"

"Um, yeah. Hold on. I'm emailing it now."

Within seconds I had the email. Connie Jefferson was her name. She lived in San Leandro, not far from the FBI office in Hayward. The phone number wasn't there. Woody had it programmed into his phone and never dialed it from memory, and unfortunately, the phone had been seized by the FBI. Still, I knew she was the Hayward R.A. secretary and could just call her at the listed number for the FBI there.

"Okay, I got it. What else?"

"Can you identify and interview any witnesses to the shooting?"

"I'll try, but my guess is they won't talk to me. I know there are orders out not to talk to anyone. When will you get the 302s?" FD-302's are the reports agents write when they do interviews or other investigation.

"I don't know. Sheila isn't even returning my calls. I think some of the agents are still writing theirs up."

"More likely they've been written up, but the supervisors are reviewing and revising them to conform to the official version of events. There should be other documents you can request. The firearms instructors make up a score sheet for all the agents who were out there. The agents all sign in on it so they have documentation that they qualified. It could serve as a roster. That's a starting point. How about the names of the people in the scenario? Woody should be able to give you those names."

“He gave me three names in addition to Jermaine and himself. Rodney Watkins, Chris Bobu, and Ricardo somebody. He wasn’t sure of the last name.”

I thought about this. Watkins and Bobu were both firearms instructors, as were Woody and Jermaine. I didn’t know who Ricardo was, either, but having four instructors in the same exercise had to mean it was training for the instructors themselves. If it had been a general agent training day, the participants would almost all have been non-instructors while the people guiding the exercise and observing would be the instructors. It was likely that Bobu, the Principal Firearms Instructor, or PFI, was prepping Woody and the others to be able to teach agents or police using this arrest scenario.

“Okay, that’s a starting point. We need to find out the names of everyone there as soon as possible. Memories fade. Most agents out there wouldn’t do a 302 or other paper; they’d just wait for the PFI or ASAC to interview them about what they saw or remember. That’s the paper you’ll eventually get and may or may not accurately reflect everything they remember or said. If you can’t get a list from Sheila, with contact information, please make a motion to get that as soon as you can.”

“I like that attitude. I see you’re getting into it. I will. I have a motion hearing tomorrow and that’s one thing I’ve already got on the list. I’m also going to get the judge to order the SAC to notify all personnel they’re free to talk to us. It’s obstruction of justice to deny the defense the right to interview witnesses. That’s a no-brainer, but apparently your SAC is, too. That should be granted and in effect by tomorrow.”

“I’ll testify to that. Look up the word ‘moron’ in Wikipedia and you’ll see his picture.”

“It’ll be a few days at best before I get any medical or forensic stuff. If it comes in before you leave us, I want your take on it.”

“That’s not my area of expertise, but I’ll tell you what I can.”

“Great. I gotta run. I want to get your name to the prison people right away so you can visit Woody promptly. You should be able to see him by Monday, maybe even over the weekend. Thanks again for coming on board.”

“I’ll probably regret it. I’ll be talking to you as soon as I have anything.”

After we hung up I immediately went online. I’ve learned the importance of the social sites for my investigations and I’ve created several personas, sock puppets, for this purpose. I have multiple accounts on Facebook, Google+, LinkedIn, Instagram, Twitter, and many others. Today, though, I realized I could use my real identity. I was a Facebook friend with quite a few of my old FBI coworkers, including the support people. I didn’t know Connie Jefferson, but I was sure that we’d have mutual friends if she used any of these sites.

It didn’t take me long. Connie had a Facebook account and was friends with several FBI people I knew, including Woody. I sent her a friend request. I found her on LinkedIn, too. Same deal. The LinkedIn account had more information that was useful to me. Apparently she wanted to get a professional

job in her college field, which was business. Her picture told me quite a bit, too. She was quite striking and I could see why Woody and Jermaine would be pursuing her. She was a light-skinned African-American, but obviously had something else in her heritage that gave her an exotic look. When I reviewed her experience and skills I saw that she was born in Thailand and had lived there for her first seven years. She spoke Thai. That meant she was almost certainly the daughter of a black American soldier and a Thai mother, the exact same mix as Tiger Woods. She was just as good-looking as Tiger and apparently as athletic, too. She listed several marathons and triathlons where she was a prizewinner.

I'm no hacker and made no attempt to access any of her accounts or see her timeline or posts. I wanted to see what she had listed for her relationship status but I'd have to wait for her to accept or decline my friend request before doing any more. I did go to the Facebook pages of all of our common friends to see if there were any posts there that involved her. I spent almost an hour and found only one, a picture posted by Woody of the two of them in a posed pre-race shot at the Napa Marathon the previous year wearing running gear and race numbers.

I walked out to Maeva's desk and told her I'd agreed to do a week working for Woody. She was obviously pleased. I could tell she was silently crediting this decision to herself. Then I told her I was taking her up on her offer to work on it for free. Her smile disappeared for a few seconds before she nodded. She probably never thought I'd let her work unpaid, but the reality was I'd still lose money on the deal and now I had a new car and new suit to buy. I briefed her on what I knew from Bert and from the sites I'd visited then I gave her Connie's Facebook account link and told her to see what she could dig up. I also gave her the names of the agents, including Woody's identifiers, and gave her the same assignment for them.

When I retired I was not supposed to take any FBI documents with me, but I'd copied the office phone list. Every agent I know has done the same thing. This list has all the home addresses and phone number of the other agents in the division. It's revised every three months or so. Mine was rather outdated now, but I knew where Ellen kept her personal copy. She'd be pissed if she knew I used hers, but I wasn't planning on telling her. Besides, she wanted me to help Woody, and anyway, she was supposed to keep it secure at home. The reality was agents had to contact each other after hours all the time and couldn't always go through the FBI switchboard so that list was essential.

I looked up the addresses of all the agents Bert had mentioned in my own list. I couldn't find a Ricardo, but there were addresses and numbers for all the rest. If they hadn't moved or changed numbers since I retired, I should be able to contact them. Whether they'd talk to me was another matter. I thought about calling some of them right away, or later this evening, but decided it would be better to wait until tomorrow when Bert expected to win his motion forcing the SAC to rescind his no-contact order. The addresses were all over the Bay Area,

so if I had to travel to their homes, there would be some miles and time racked up, but I knew that interviews of this nature should be in person. Going the telephone interview route would be cheating Woody. I had to see the body language when I asked the questions.

I hadn't learned much of use yet, but every little bit helps when you're just starting out. None of the firearms guys were in my social media circles and I didn't want to be so obvious as to send them all friend requests at the same time. They'd probably be in contact with each other. If they wouldn't talk to me, I gave some thought to who might get a better reception. I created a new account on LinkedIn, Facebook, and Google+ for a woman firearms instructor in a fictitious small-town Canadian police agency. On a hunting and fishing website I found a picture of an attractive thirtyish female holding a rifle as she knelt next to a moose she'd killed. I copied this to use for a profile picture. Then I scoured the web forums for one that was specific to police firearms instructors. I found a couple that looked too hard to join; they claimed to vet members before letting them join. Then I found a manufacturer of firearms training gear like targets, indoor range equipment, and the like that ran a web forum anyone could join.

I joined with my new identity, adopting the user name Huntress. All it took was an email address. I had created a new one just for her. Within minutes I was on and could scour the postings there. There was a feature called "Ask the Community." I skimmed through it and one post caught my eye. A member whose ID was "Bubo" had asked about recommendations for a supplier of barricades. There were two replies mentioning suppliers. Could that be Chris Bobu? A rocket scientist he wasn't, I knew, and that would be the kind of name change he would think gave him anonymity. I checked his profile and there was a picture of a metallic owl. I did an image search on it and found that it was a picture of a character from Clash of the Titans back in the 1980s named Bubo. His profile identified him as a professional firearms instructor but gave no location or agency. I found the link that allowed one forum member to send a personal message to another and sent him one asking if he had found the best supplier and said I had a similar need for my department. I sent him the links to my newly created Facebook and LinkedIn accounts as well as my female's personal email address.

As I finished up with this, Maeva came into my office with news. She'd found Jefferson's name in the registration list for a 10K race happening nearby on Sunday, three days from today. She said she'd be willing to go and try to get some info from her in an undercover capacity if I'd spring for the registration fee. She warned me it would be expensive since the early registration date had already passed.

"I didn't know you were a runner," I remarked.

"I'm not. Not the kind that runs in races. I'm more of a Kinsey Millhone runner."

I laughed. Any fan of crime fiction knows that Kinsey Millhone is Sue Grafton's private eye heroine who is diligent about daily running, despite finding it arduous or distasteful as often as not. Maeva was about Kinsey's size, too, five foot six, one eighteen. Maeva, one melanin gene short of an albino, was of Scandinavian heritage and labored daily trying unsuccessfully to keep her red, frizz-ball hair under control. I smiled inwardly as I pictured the contrast between her and Jefferson. "And how would that help?" I replied.

"I can get there early, try to befriend her before the race, you know, while warming up, stretching and stuff. Maybe I can get her talking about guys, find out whether she was dumping Woody. That's the kind of thing she might tell another woman, especially one she thinks doesn't know who she is and will never see again."

"Hmm. It's worth a try, I guess. How much is the entrance fee?"

"Thirty-five. Most of that goes to the Arthritis Foundation. It's for a good cause."

I sighed but gave her the okay. At least that was one I could legitimately expense, and if Woody never paid, I could deduct on my taxes. Maeva beamed. This would be her first solo undercover gig. The only other times she'd been out on an investigation in a UC capacity she'd been there with me just to make us blend in, like at the bowling alley. She'd never spoken to anyone we were investigating.

Normally, in a criminal case, I would start doing criminal checks on all the parties, but everyone was an FBI agent except Jefferson, and even FBI secretaries have to pass a rigorous security screening, so I knew no one would have any significant criminal record. This wasn't a due diligence investigation. What I really needed to know was whether the shooting was an accident, and if not, why Woody shot Jermaine. Either way there were legal defenses and pitfalls. If it was an accident, there could still be a prosecution for manslaughter, not to mention Woody or someone else getting fired and being sued for big bucks. If it was intentional, it might be second degree, not first.

I put in a Google Alert for any terms I thought might apply to the shooting or the people involved, and I started searching logical hashtags on Twitter, too. At that point, I figured there wasn't a lot to do. I worked on other things for the rest of the day and went home.

*All babies look like Winston Churchill.
Edward R. Murrow*

Chapter 7

Ellen was delighted to learn I was going to take the case, even if only for a week. She was convinced Woody had to be innocent. She'd worked with him closely on a couple of cases and felt she knew his character. He wasn't the kind of person who would do such a thing. To me she sounded like those women interviewed by news reporters when their sons are arrested for murder or some other heinous crime who insist he couldn't have done it. Most of the time she was right there with me, scoffing at big Mama, but today we were on opposite sides. I didn't point this out, though. I admired her faith in the people she knew, but the flip side of that coin was that she was expecting me to prove Woody was innocent. At that point, I would just as soon she had a little less faith in me. That's a hard expectation to meet when someone is guilty.

I played with Tommy for a few minutes, which consisted of staring at him as he lay there in his crib doing his Winston Churchill impersonation. Ellen and I used to take turns fixing dinner since we both worked full-time, but Ellen was determined to do the cooking now that she was staying home. The only problem was, she was too exhausted from childbirth, child care, and lack of sleep. She managed to put together dinner consisting of pre-packaged grocery store soup with some cooked chicken breast cut up into it for body, and a rudimentary green salad. It all tasted pretty good, but I had to sneak in a peanut butter sandwich afterward to up the calorie count.

After dinner I checked my email and the social media accounts I had set up. To my surprise, I had a reply already from Bubo, the firearms instructor I had asked about barricades. He had replied directly to the phony email account I had set up for Huntress, the fictitious moose-killing Canadian woman with the big rack. I'm talking about the antlers of the moose, of course. He advised her, that is, me, that he worked for a big agency that ended up making its own barricades out of plywood and two-by-fours because it was afraid some of the commercial ones bore too much risk of ricochets. He said in their course shooters sometimes began back at the fifty yard line and moved forward, shooting from behind barricades at the twenty-five yard line under time pressure. Sometimes when they were shooting from the fifty, stray shots hit the forward barricade. They made sure there were no nail heads facing backward. Bullets would penetrate the wood, but not bounce back. That was the big danger. He didn't identify himself or his department any further.

The sender's email address was at hotmail and didn't tell me anything about him. I checked the IP address in the header of the email. It was assigned to AT&T U-verse and located in Concord. The description in the email of the agency and its firearms course matched the FBI exactly. I couldn't be certain, but

I'd be willing to bet that "Bubo" was Chris Bobu. I pulled out Ellen's office phone list while she wasn't looking and verified that Bobu lived in Concord. I put the list back before Ellen could notice it was gone. Now I was sure it was Bobu. I wasn't sure how I would use this new connection, but I replied, thanking him for the information and praising the good advice about ricochets. I reread it to make sure I wasn't laying it on too thick. I toned it down a notch and hit send. That was all there was, so I logged off.

When the late news rolled around, we watched, but didn't learn anything significant. The reporter showed a clip of an interview of one of Woody's neighbors who described him as a nice guy who always said hi. That's real informative. Then a picture of Jermaine in a military uniform was shown. Jermaine's parents were also shown leaving their house, a nice suburban one-story somewhere back east. The father was a manager at Walmart and she was a librarian. They had no other children. They wouldn't respond to questions. The reporter finished by saying that Logan's organs had been donated. I wondered which ones made it through in good enough shape to be donated.

The next morning, Friday, I went into work as usual and checked all the email and Internet sites I'd set up. There was nothing new. Maeva registered with the race site, paid by credit card online, and printed out the receipt. She brought this in to me, considerably including a reimbursement check from my business account already made out to her for my signature.

At 10:30 I got a call from Bert. He'd just gotten out of the motion hearing. Bert had requested that a list of everyone present at firearms that day, all FD-302 reports, and all photos taken by the FBI, whether the agents with their smart phones or the crime scene team that came in later that day, be produced immediately. Sheila had opposed all three requests. She'd said that the 302s were still in the process of being dictated or reviewed and hadn't been filed yet, so they weren't official documents. Her argument against the photos was that the official ones were still being processed and she had no way to collect the ones from agents. As for the list, she said that no such list existed, but that she would request one be compiled.

Bert was familiar with the way 302s were handled by the FBI and knew Sheila was probably right on that one. The judge had accepted the AUSA's word and said she would have to produce them once they were approved by supervisors and filed. Bert had pointed out that photos no longer had to be "processed" since they were all digital and could be immediately copied and provided. Sheila had countered that the FBI still used film because it had better resolution. The judge had asked her to explain why an FBI photographer had recently testified in another case that he had taken digital photos. Sheila, unabashed, had replied that they used both and that she had never said they only used film. The judge had not appreciated the misleading argument and had ordered her to provide all digital photos by investigating agents or official photographers to the defense by the end of the day or face sanctions, and to

produce any film ones as soon as they've been developed and printed. He held off on ruling on photos the on-scene agents themselves may have taken until it could be determined whether any existed. He accepted Morrissey's argument that they probably didn't bring their phones into an arrest scenario. Bert had been able to refute the argument about the roster, thanks to me, and Sheila had said perhaps she had been "misinformed" and would check to see if the roster or scoresheet existed. The judge had ordered it produced promptly when and if it was determined to exist.

"Cliff, I owe you on that one," Bert told me.

"Glad I could help. What about the FBI order not to talk to the defense?"

"Right. Sheila didn't even oppose that motion. She knew it was a lock, and opposition would just make her look bad with the judge. I got an order that the SAC must inform all FBI personnel immediately that they're free to talk to the defense. He didn't say anything about the press. The judge made clear that 'immediately' meant by one o'clock today. He understood that I wanted my investigator to get started interviewing witnesses over the weekend. Afterward Sheila asked me who that was so she could inform the SAC. I didn't give her your name. I just said I would probably have several different investigators working on it."

"Good thinking. I'd just as soon my name isn't broadcast to the whole division yet." I explained to him what I'd done with the social media and how I wanted the weekend to see who allowed me to connect with or friend them. I asked about visiting Woody on Monday as he had previously mentioned. He told me he expected to hear from the prison later today that I was cleared.

As soon as I hung up with Bert I called Gina Nguyen, Woody's squad supervisor in San Jose. I had to sit on hold for an eternity, but when I was put through I told her about the judge's order that it was now okay to talk. She told me the word from the SAC hadn't come down yet, but that as soon as it did, she'd call me back. That happened at 12:58.

"Cliff, I just got the official word," she began, and I could tell from her tone there was a story there. "The SAC sent out an all-employee memo by email saying employees were free to talk to defense investigators if they chose, but then followed that saying that didn't mean they were required to talk to the defense. He underlined that part and went on to say it was conventional for defense attorneys to obtain information from law enforcement witnesses on the stand."

I was disgusted, but not surprised by this. "Great," I said. "He's telling everyone they can talk but to keep their mouths shut if they know what's good from them."

"That's not a problem for me, you know that. Woody's a good agent and a good friend. I'll talk to whoever I have to to get him a defense. So you're the investigator, then?"

“For now. I only agreed to do it for a week. I can’t get in to see him at the prison unless I’m hired on, so I did that much. I want to hear the story right from him. Don’t tell anybody about me yet, though.”

“Okay, so what do you want to know? I wasn’t there.”

“For starters, can you tell me who was?”

“The way I heard it, the people in the shooting scenario were Woody, Jermaine, Rod Watkins, Chris Bobu and Ricardo Garcia. Woody and another agent were playing the bad guys and the others were the arrest team.”

“Was this an all-instructor day? I know everyone but Garcia is.”

“He is, too. He’s new since you retired. It was all instructors in the scenario, I guess, but I think there was a special shoot going on for the front office over on the range. There were some instructors there with the SAC and ASAC.”

“A special shoot, as in poke as many holes in the target with your pen while scoring so you qualify?”

“Look who’s talking. Remember, I’ve been to firearms with you before.”

“Fair point,” I conceded. Even when younger I was never a good shot and more than once I had to reshoot in order to qualify. I was in no position to be casting stones. “So Fitzhugh himself was at the range?” Theodore “Trey” Fitzhugh III was the Special Agent in Charge of the San Francisco Division.

“So I hear, but not anywhere near the barracks where the scenario took place. I don’t think you’ll need to interview him, thank God.” Gina knew that Fitzhugh and I had had our run-ins in the past and it wouldn’t go well if I tried to interview him.

“No point. He wouldn’t talk anyway. Anyone else you know of out there?”

“Dawson.”

Carl Dawson was the Assistant Special Agent in Charge, or ASAC, with the oversight of the San Jose R.A. He’d been there only eight months or so, so I’d never worked with him. I’d met him at the Christmas party the FBI throws every year for special friends, but didn’t know much about him. “Will he talk to me, you think?”

“After today’s memo, I doubt it,” she replied, “but he liked Woody, and may feel under pressure to defend any agents who work under him.”

“Alright, thanks. How about Woody’s guns? Do you know what he carried?” I knew that many agents carried personally-owned weapons, although they had to be Bureau-approved.

“Yeah, he carried his Bureau-issued Sig on his belt. I think he owned a couple of personal weapons, too. I don’t know what he was carrying at the time of the shooting.”

“Do you know what his personal guns were?”

"He had a little five-shot revolver he carried in an ankle holster for backup when he went out on dangerous arrests. I think he had a .357 magnum, too."

"Do you know anything about the scenario itself?"

"Not really, except what I told you. It was in the barracks. The PFI was running it." That was Bobu.

"How about the scuttlebutt? What are people saying?"

"Around here most of them are saying it must have been an accident. They all know Woody and don't believe he's a murderer. But up in the East Bay and San Francisco, I think it's leaning the other way. They know Jermaine better. No one's talking about the shooting itself, other than it was a contact shot to the abdomen and Woody called Jermaine a cocksucker right before shooting him."

"Yeah I heard about that. Have you heard anything about the medical situation? Did he die there at Santa Rita or in the ambulance, or what?"

"The SAC must have gotten a preliminary report from the doctors. He told us supervisors the shot went through the large intestine and the liver and severed an artery somewhere inside. He bled out at the hospital within minutes after arriving."

"Do you know if he said anything to the doctors or ambulance staff before he died?"

"I have no idea. That's good thinking, though. I knew you'd be the right man to help him."

This was very frustrating. The last thing I needed was one more person with unrealistic expectations of me.

"We'll see about that," I responded. "Can you tell me anything about Connie, the girl he was seeing? Was the relationship solid?"

"He doesn't talk to me about his love life. I saw them biking together once on a weekend maybe three months ago. I just happened to pass them while I was out running errands. If it weren't for that, I probably wouldn't even know they were seeing each other. He came alone to the Christmas party."

"Has he ever mentioned Jermaine or Connie?"

"Not to me. I haven't heard anything second hand."

"Okay. That's all I can think of right now. Is there anything else I should know?"

"Not that I know of." Gina sounded frustrated that she didn't know anything else that was more helpful.

I thanked her and hung up. I checked my Internet sites again and found that Connie Jefferson had "connected" with me on LinkedIn. I'd already seen her profile there, but I got a little more information about her after connecting. None of it was useful. It was mostly the sort of résumé padding you'd expect. I guessed that she only did it because I was ex-FBI and now was practicing law in Silicon Valley. Her profile made clear she was looking for a better position with a big company. LinkedIn is all about professional networking. She'd also accepted my

friend request on Facebook, either because we had some mutual FBI friends or because she wanted that same networking connection. I looked at her profile and timeline there. She didn't post much. There were a few photos of her races and triathlons. She had a sister who posted a lot of pictures of her dog on Connie's page. I checked the profile section about relationships. All it said was "Ask." I considered clicking that ask button, but figured that would just seem creepy to her since she knew I was a retiree.

Bert called me again about two o'clock with some good news. The prison had called him and approved me as a visitor. I could visit Woody on Saturday between ten thirty and eleven thirty. I thanked him and finished up the afternoon with some more records checks and planning.

That evening Ellen fixed an experimental tuna casserole for dinner. It was a disaster, but I ate it down like it was haute cuisine. When I told her I would be going to see Woody tomorrow I could see something was bothering her. Finally I just came out with the question.

"I can see something gnawing at you. What is it?"

"I know I told you it was okay for you to be working all week while I'm taking care of Tommy by myself, but you promised me you'd take care of Tommy on the weekends. I'm glad you're helping Woody, but I really need some time to get things done without him. I haven't been running all week. There's some shopping I can't do with a baby in tow. My clothes don't fit and ..."

"Okay, I get it. You're right, but this is important to get the real story early before everyone's memory starts getting cloudy or influenced by what others are saying. I was going to say no, but you encouraged me to help him. I'm not going to do a half-assed job."

"Sweetie, I'm sure this can wait until Monday. I'm going bonkers here. I need, ... I," and suddenly she started to cry. She'd been doing that more and more lately. I knew about postpartum depression, but this was probably the first moment I realized she could be experiencing it. I also knew that when she used the word 'sweetie' I was in deep kim chee.

"Whoa, everything's going to be fine," I cooed, holding her tight. On cue, Tommy started crying. She broke away from me and picked him up from his crib. She'd fed him only minutes before, so she flipped a diaper over her shoulder and put him position to be burped. "Let's do this," I said. "Why don't you come with me? You can go running in the morning while I watch him. We don't have to be out there until 10:30. You can come out there with me and, while I'm inside, you can take Tommy in the stroller and pick up some geocaches out that way. I know you haven't been out geocaching for awhile, either. Pick me up at 11:30 and we'll have a nice lunch. I'll babysit the rest of the day."

She didn't reply immediately. Tommy was obediently spitting up on the diaper and she was dabbing at his mouth as he finished. She nuzzled him gently before putting him down again. "That would be nice. I've never gone caching out that way," she replied. "I can put him in the Snugli and I think I can do it. He's

not heavy yet and he's always peaceful in that thing. It would be a lot easier than with a stroller."

"Okay, then. Problem solved." I gave her another squeeze and this time she returned it. "Just be sure to leave me some milk for Tommy for the afternoon."

She nodded agreement and went off to get her kit to express some milk. She was fortunate that she'd had no trouble with that, either. Ellen is no prude. To say she's affectionate in the bedroom would be a huge understatement, at least before Tommy arrived, but for some reason, she was shy about expressing milk. She didn't like me to see, so she went in the other room. By the end of the evening she was in a better mood and apologized for her crying jag. We watched the late news again, but there was nothing new on Woody's case.

All men profess honesty as long as they can. To believe all men honest would be folly. To believe none so is something worse.
John Quincy Adams

Chapter 8

The next morning I woke up early. This was not by choice. Tommy was crying at five thirty and by now Ellen had made clear my duty was to get up and bring him to her so she didn't have to get out of bed to nurse him. The same thing had happened at one and three thirty, but who's counting.

I got up and fixed myself a bowl of cereal while Ellen went back to sleep. She was up by seven and ready to go on her run. As soon as she was out the door I flopped down in my recliner with Tommy in the Snugli on my chest. We both fell asleep and slept the entire time she was gone. Neither of us woke up even when she got home, all invigorated from her run. She snapped a picture of the two of us and laughed when the flash woke me. I have to admit it turned out awfully cute.

Ellen had already loaded a bunch of geocaches into her GPS unit, so it didn't take us long to get ready to go. We got Tommy into his car seat and headed out. We pulled up to the prison right at ten thirty on the dot. I got out and Ellen took the car to do her geocaching.

This was my first time at the prison. You'd think FBI agents would be visiting prisons all the time, but in fact it's rare. By the time someone's been incarcerated, the FBI's job is done. I'm not saying it never happens, but it had never happened to me. The entry process was pretty intimidating for someone not used to it. There's a lot of stuff you can't bring in, like cell phones or recording equipment. Even though Dublin's a low-security prison, it's still a prison and they don't fool around.

Since I was an attorney, the rules were different for me. I got scanned by some drug detector-device like the others, and went through a metal detector, too, but I was allowed to bring in my laptop. They told me I couldn't use it to do audio or video recording, but I was allowed to use their equipment for that.

There was a big sign on the wall describing the prohibited apparel for visitors: tank tops, see-through blouses, mini-skirts, shorts, spandex, or halter tops. I guess the inmates are horny enough without additional provocation. I was pretty sure I wasn't going to be inciting any additional lust in my lawyer suit. Khaki clothing was also prohibited since that looked like prison garb. Visiting hours had started at 8:00 AM for regular visitors, but since I was an attorney and needed a private meeting room, they'd had to schedule me in. The guard made it abundantly clear that I was inconveniencing them by scheduling a visit on a weekend when all the regular visitors were there. He made reference to "the order" and then I realized that Bert had gotten the magistrate to issue an order that I be admitted on Saturday; otherwise I would have had to wait until Monday.

I went through so much process I was half-expecting a rectal exam, but after completing enough paperwork to file a tax return I finally was shown into a small visiting room. Woody was already sitting there wearing khaki slacks and a matching long-sleeved shirt. A name tag was sewn on the shirt with his last name: Braswell. I had been expecting an hour, but it was already eight minutes to eleven.

"Cliff, I can't thank you enough," he gushed. I held out my hand to shake, and he grabbed it with both hands. His wide receiver's grip was impressive, but not crushing. We sat.

"Woody, I wish I could say it's good to see you, but not in this circumstance. We don't have much time. I thought it would be a full hour. Why don't you just tell me the whole story."

"Sure, but you have to believe me, Cliff. I don't think anyone else does, even my lawyer. Gina told me he's good, but ... I don't know."

"Bert Breen is top-notch. Trust him. I've worked with him. Now just tell me the story of what happened. We'll have more time later, but I want to get going on my investigation to help you. I've only agreed to one week so far."

"Yeah, okay. So it was a firearms day for instructors and the front office. The SAC and two of the ASACs were there on the regular range with an instructor or two. The PFI took the rest of us over to the barracks. We were doing an arrest scenario with three arresting agents and two violent fugitives inside. We were supposed to learn the scenario so we could run agents through it at regular firearms. Bobu split us up and gave separate instructions to the agents and to the bad guys, so neither of us knew what the others were going to do."

I interrupted at this point. "Did you volunteer to be a fugitive or did he assign roles?"

"He did. So I don't know exactly what he told the arresting agents but he told us that one of us – me – was going to try to escape if given the chance. I was supposed to comply at first, but then escape if he screwed up. The other bad guy was to be compliant but that if I got free he could join me in resisting or trying to escape."

"Who were the others in the scenario?"

"Jermaine, of course. He was one of the arresting agents, along with Ricardo and Bobu himself. Rodney Watkins was the other fugitive with me."

"So Watkins was to be compliant and you were instructed to try to escape."

"Right."

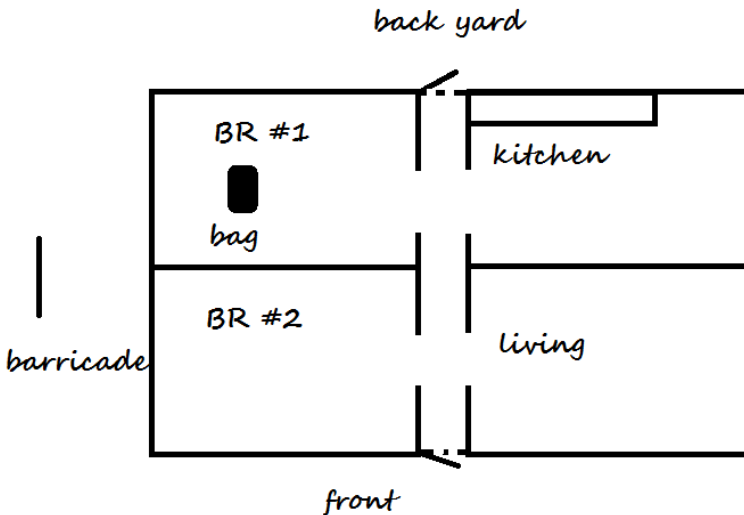
"That's Ricardo Garcia?"

"Garcia, right. He's pretty new. I forgot his last name until you said it. I'd seen him around once or twice, but that was the first time I'd ever worked with him."

"Okay. Go on."

“So I was positioned in the kitchen. It’s not really a kitchen they just call it that. There’s no appliances ...”

I held up a hand to stop him. I had been jotting notes on a pad of paper as Woody had been talking, but now I made a rough sketch. The barracks buildings were old wood frame structures dating back to World War II. This whole area had been part of Camp Parks, a base originally built by the Seabees in 1942, and later transferred to the air force and then the army. It still exists as an army reserve training area, but in the 1950s it was downsized with much of the land transferred to Alameda County Sheriff’s Office and to the federal prison authorities. I’d participated in some arrest scenarios myself in those barracks as an agent. They were better described as four-room shacks than housing. There was no glass in any of the windows and no doors in the interior doorways, just empty frames. There was no furniture in any of them, but the kitchen area had a rusted out sink, some drawers, and a countertop. I drew a rectangle with a hallway in the middle that ran directly from the front door to the back door. When both doors were open you could look all the way through the house from the front yard to the back yard. All four rooms opened onto the hall. At the front were the living room and one bedroom and at the back were the kitchen and the other bedroom. Those were what we called them, anyway.



I showed him my sketch and asked if it was accurate. He nodded. “Okay, just tell me what happened.”

“Uh, sure. Watkins was in the front room. We heard Jermaine yell ‘FBI, come out with your hands up.’ He sounded like he was out front. I peeked out the kitchen window in the back and I saw Ricardo there behind a wooden barricade they’d set up there. I ducked back out of sight, but he saw me when I looked and he started yelling at me. My name was Jones for this scenario. He was yelling

‘Come out, Jones, I see you.’ So I came out with my hands up like I was instructed. He came out from behind the barricade, his gun on me.”

“Back up. Were you armed? What were the instructions before you started about guns?”

“No, man. I was unarmed. We were supposed to be taken by surprise, but my weapon was in a kitchen drawer. Watkins was supposed to be the violent one, the guy named Smith in the scenario. He had a gun in his hip holster. So we all brought our service weapons, but mine was in the drawer the whole time in a holster. Before the exercise we all unloaded our rounds into an ammo can and locked the slide back. We showed our gun and empty magazine to the guy on our right then the guy on our left so everyone could see that all guns and clips were empty. The same as always. You’ve done that before, I’m sure.”

“Okay, so you went out the back door with your hands up, is that right?”

“Right. I walked toward Ricardo, but he ordered me to stop as soon as I got a couple of steps from the door. I don’t know exactly what was happening in the front of the house but I could hear Jermaine yelling commands at Watkins.”

“Where was Bobu?”

“He was on the side, neither front nor back. He was behind a barricade watching the other two arresting agents, and covering them with his weapon.”

“His was unloaded, too, I take it?”

“Of course.”

“And all the weapons were regular service weapons, Sig Sauer pistols?”

“I think so. I didn’t pay that much attention to the specific models. There could have been Glocks or something, but definitely no revolvers, if that’s what you’re asking. Not when we were all showing each other our unloaded weapons.”

“All right. So what happened next?”

“Ricardo had me turn around and told me to lie face down, like he was going to cuff me. The back door was wide open and I could see down the hall. Watkins was standing in the hallway with his hands up, walking backwards toward the front door, with Jermaine right behind him. I could see that Ricardo couldn’t shoot at me because, one, I was unarmed, and two, he’d be shooting right down the hall in line with Rodney and Jermaine. So that’s when I bolted back inside.”

“And that was what you were instructed to do, as you understood it?”

“Yeah, it was. Well, Bobu never told me exactly when or how to escape, just if I got the chance to do it. I thought I had a chance at that point. See, I think Ricardo made a mistake in stopping me so close to the door. If he’d’ve brought me out farther and had me lie down while my back was still to the door, he could have come around and cuffed me.”

“Go on.”

“So I ran into the house. I was going to turn left into the kitchen to get my gun from the drawer, but as I looked over my left shoulder I could see that Ricardo was running to the kitchen window. I thought that he could get to the

open window before I could get into the kitchen and open the drawer. If he saw me in there reaching into the drawer, he'd shoot me. So I made a right instead. There was a bedroom there. I was planning on jumping out a window on that side, but when I got into that room I could see out the window that Bobu was right there with his weapon trained on the window. So I looked around and there was the SWAT bag on the floor. I figured it was put there as part of the scenario."

"SWAT bag? Your SWAT bag?"

"No, man, not mine. Just a SWAT bag. I don't know whose it was. They all look alike. You've seen 'em. The big, bulky ones for all the protective vests, boots, ninja suits, billy clubs, extra magazines, big flashlight, flex cuffs, the whole works."

This gave me pause. This was the first I'd heard about a SWAT bag. Bert had told me that Woody had spied a gun in a bag, but I hadn't realized it was a SWAT bag. I knew Woody had been on a SWAT team earlier in his career and I'd seen him with his SWAT bag when I was working in the San Jose office, but I also knew he wasn't on one any longer. If Porillo was right that Woody had killed Jermaine with his own gun, then I would assume the bag that he pulled it from was his bag, too. I didn't see how Woody could have pulled his own gun from his own bag without knowing it. I decided not to ask him about that yet as I wanted the story straight as he remembered it before I gave him any hard questions.

"Sure, Woody, I've seen them. Go on."

"Well, those bags have an end pocket, a smaller zippered section separate from the big section. I could see the outline of a gun in the end pocket, so I just unzipped it and reached in. There was a gun, a small revolver. I grabbed it and ran back toward the hallway. Just as I got there I heard scuffling and shouting in the hall just outside the door. I flattened myself to the left of the open doorway."

"You were still inside the bedroom?"

"Right. Then I could hear Watkins and Jermaine right outside my door. Watkins must have bolted down the hallway when he saw me make my escape, but Jermaine caught up to him fast. He can outrun anyone in the division, I think, including me. So I could hear them thumping against the wall right on the other side from where I was standing. They didn't know I was in there, I don't think. I could hear Jermaine order Watkins down on his knees, then I heard him cuff 'im. I could actually hear the ratchets as the cuffs went on. Then Jermaine ordered Rodney to stand, and they started to walk back toward the front, past the bedroom doorway."

At this point I stopped him again and asked him to indicate on the diagram where everybody was. He drew a small circle to indicate Bobu on the outside and a question mark in the back yard by the kitchen window, explaining that he thought that's where Garcia was at that point, although he might have

moved. Then he drew three tight circles representing Jermaine, Rodney, and himself. He neatly penciled in 'JL,' 'RW,' and 'SB,' his own legal name being Sherwood Braswell. Watkins was in the hall right at the open doorway and immediately behind him was Jermaine Logan. Woody was just on the other side of the wall from Jermaine, neither able to see the other. I nodded for him to continue.

"So as Watkins passed the doorway, I reached my gun hand, that's my right hand, around the door frame, pushed it into Jermaine's body and pulled the trigger. At the same time I yelled 'Take that, sucker.' That's when the gun went off. It was so loud in there. We didn't have ear protectors on because there was no need. I just remember my ears ringing and people yelling. I know I dropped the gun out of total surprise. Jermaine was slumping to the floor and I couldn't understand what was happening. Bobu came rushing in, I think. Watkins was down next to Jermaine. I didn't see any blood, but I could smell the gunpowder. I knew I'd shot him, but nothing made sense. Somebody, Bobu, I think, grabbed my arm and walked me into the front bedroom away from everything and told me to stay there, then he went back to try to help Jermaine. I could hear him telling Ricardo to call an ambulance, I think, but I couldn't see what was going on and my memory is all hazy after that. I remember sitting down on the floor there and putting my head in my hands, wondering what I'd done. After a while more agents came over from the other area, where the front office brass were shooting. I could hear the SAC's voice outside talking to Bobu and some voices on cell phones. Then there was an ambulance and some paramedics. The next thing I knew Bobu and another agent were arresting me. They said the SAC ordered it."

"Did you make any statements? Did they question you?"

"Bobu read me my Miranda warnings without questioning me. I just kept asking if Jermaine was going to be okay but they said they didn't know. I said something like 'It was an accident, I swear,' but Bobu told me not to talk, just to shut up and get a lawyer. He was trying to protect me, not get a confession or anything. I think I stopped talking when he put the cuffs on me, but in the car I might have been saying something, babbling about it being an accident. I just don't remember exactly now. They took me to the Oakland R.A. for fingerprinting and photo. They let me walk in without the cuffs so it wasn't too humiliating, but everyone already knew what had happened by that time. Nobody talked to me except when they gave me instructions to place my hands for the prints or where to stand for the photos. Then they took me over to the city jail on a courtesy hold."

"You keep saying 'they.' Who were the other agents with Bobu?"

"There was only one, George Mossberg. He was one of those who came over from the range, one of the instructors running the front office personnel through qualifying."

I jotted Mossberg's name on my pad. I remembered him slightly, but I'd never worked closely with him. That's one more person I'd have to interview, if he'd let me.

I finally got the story of the shooting straight from the horse's mouth, but I could see some major holes in it. I didn't like it, but had to start forcing a number of issues. I decided to start soft and work up to the biggies.

"Woody, there have been things I've heard on the news or through the rumor mill that I need you to answer. Don't take these questions personally, please. Just answer them. I'm on your side and everything is attorney-client privileged."

"Yeah, yeah, I know how it goes. I'm just so glad it's you. No one else will believe me. Ask whatever you have to."

I didn't like this response because he was already assuming I was going to believe him. I hoped I could, but that's as far as it went.

"Okay. There are reports that you said 'Die, cocksucker,' to Jermaine, not 'Take that, sucker.' Do you know for sure what you said?"

"Uh, huh, well, I'm pretty sure it was what I told you, 'Take that,' but maybe I said 'Die.' It's hard to remember now."

"And the rest? Did you call him a cocksucker?"

"Cliff, you know me. I don't use that kind of language. But, you know, we were all yelling and shouting. Bad language was getting all over. I was trying to sound like a lowlife, this murderer Jones, so maybe I didn't use my usual kind of language."

"Does that mean maybe you did call him a cocksucker?"

"I don't know, man. I don't think so. Who're you gonna believe? Them or ..."

"Stop it, Woody. Just answer the questions and quit equivocating. There were others there who are going to be testifying, FBI agents. We're running out of time."

"Yeah, yeah, OK, I'm sorry. I just don't know for sure. Maybe I did. What else?"

"You heard the AUSA in court talking about your girlfriend. That's Connie, I take it?"

"Right. Connie and I are solid. I don't know where the AUSA got that stuff about her dumping me for Jermaine. I didn't even know she even knew him. Ask her yourself."

"I will. So there was no jealousy or personal issue between you and Jermaine?"

"No way. I just told you. He was just another bro, y'know? Nothing to do with Connie."

The guard rapped on the window at this point and held up one hand with his fingers spread out to indicate I had five more minutes. The guard had been

watching the whole interview through the window, but I knew they didn't listen in on privileged conversations.

"Okay. So tell me more about the gun you shot him with. What was the make and model?"

"It was a five-shot revolver, that much I know. It looked like one of my guns, a Smith & Wesson 442, but I couldn't swear it was the same model. I didn't have time to take a close look. I just reached in the bag and pulled it out as I ran back over near the door. I was watching for someone coming up behind me. I don't think I ever really looked at the gun until I dropped it."

"You couldn't tell from the weight that it was loaded?"

"No, I couldn't. You know how it is in those scenarios, the adrenaline pumping and all the yelling. I was used to holding my Sig with a full sixteen-round magazine. This was much lighter than that, so it didn't seem heavy."

The guard, a Samoan or other Pacific islander from the look of him, knocked on the window again and held up one finger. I nodded.

"Okay, then, answer me this. I heard that it was your backup gun. Explain how that could be."

"What?! No way! It looked like my backup, but that was locked in the trunk of my car. Are you shittin' me? It can't be my gun, Cliff. Have them check the serial number." His face was ashen. I never thought a black man could look so pale. Perspiration began pouring from his forehead. If he wasn't genuinely surprised, he was a very good actor.

"Did you have it in a SWAT bag?"

"Well, yeah, but ..." At that moment the guard opened the door and stepped in.

"Could someone else have entered your car? Maybe you loaned someone the keys?"

"Time's up," the guard said sternly. "Move it. We need the room."

I stood. As I turned to leave, Woody called back to me, "No, no one. I still had the keys on me when I got to Oakland. I had to empty my pockets. The gun wasn't mine, Cliff."

I was escorted to the inner lobby where I picked up my cell phone from the guards and stepped out to the outer lobby. I looked out the windows but didn't see the SUV, so I decided I had time to call Bert. I couldn't do it while other people were coming and going so I went outside and walked to the shady side of the building. I called Bert's home number, which he had given me specifically so I could give him a rundown of the interview. He answered on the third ring.

"Hello?"

"Bert, it's me. I have good news and bad news."

"Cliff. You got in okay?"

"Yeah, no problem, but I only had a little over half an hour."

"It'll go faster next time now that you're registered there. So what do you think? Give me the bad news first."

"The bad news is he didn't have a good explanation for the gun being his, assuming it is."

Bert digested this for a minute. Then, "Okay, so what's the good news?"

"If he's telling the truth, then it should be easy to prove. He says his girlfriend Connie is in his corner and he seemed genuinely shocked when I told him I'd heard the murd... uh, gun, was his. He said it was one similar to his, but it's hard to believe he would fail to recognize his own gun and the SWAT bag it was stored in. All agents have to register all their personally owned guns with the Bureau, at least if they're going to carry them, and have them checked by an FBI gunsmith. They have to qualify on the range with them, too, even the little backup guns like this one. It should be a simple matter to check the serial number of the gun that killed Jermaine. I believe you'll find it doesn't come back to Woody after all."

"That doesn't prove him innocent."

"True, but it makes it a lot easier to believe his version."

"Okay, what else?"

"I got the names of all the personnel in the deadly scenario. If Woody's telling the truth, one of them, or all of them, will have seen that bag or know who put it there and why."

"Can you start the interviews tomorrow? Or even today?"

"Do you have the 302s yet?"

"No. Monday if I'm lucky."

"I don't want to interview any of them until I know what their official story is. How about a property list, the stuff that was taken from Woody?"

"Not yet. I did get an email. Sheila said there are too many digital photos and the files are too large to send them as email attachments. She doesn't trust email anyway. She said she'll provide a thumb drive with the first batch of those on Monday. I'll want you to look at them as soon as you can."

"Fine. I've freed up Monday afternoon. I have to do some work for another client in the morning."

"Cliff, we have a lot of work to do. We haven't waived time. He's an agent in prison. It's not fair to make him sit there for months. Isn't there something you can do today or tomorrow? How about examining the crime scene? You're right there."

So Bert was doing it, too, calling it a crime scene. At least he hasn't called it a murder yet. "Bert, that's controlled space. They won't let me in without some kind of authorization. They have a deputy at the entrance booth to the property. I'm not an agent any more. I'll need a court order or something."

"Christ, Cliff, I can't keep going back to the well for every little thing. Every time I get the judge to grant me something, that gives Sheila a chance to

argue she should get a ruling going her way out of fairness. You know how the system works. Can you use your retired FBI ID to get in ... or your charm?"

I scoffed. "I've been called a lot of things in my day, Bert, but charming isn't one of them. Besides, I have a new baby and I promised my wife I'd give her a break this weekend."

No sooner had I said that than Ellen pulled into the lot. An idea struck me. "Look, I gotta go. Maybe I can get something done. I'll see you on Monday." I hung up before he could wheedle any more.

I walked over to the car as Ellen was climbing out of the driver's seat. Even from this distance I could see from her body language that she was in a good mood. She climbed into the passenger seat before I reached the car. As soon as I got in she leaned over and kissed my cheek. The engine was still running so I buckled up and put it in gear. Tommy was in his car seat in the back, sleeping. I knew that a lot of babies fall asleep easily in the car. He was one of them.

"How'd the geocaching go?" I asked.

"Good," she gushed, obviously excited. "I found all five. There was this one with incredible camo. You should have seen it. It took me twenty minutes and it was right there. I had it in my hand at least twice before I realized what it was."

"That's great, honey. I'm glad you had fun."

"Thanks for suggesting this. Tommy was no problem in the Snugli. He cried once and I just opened the snap and nursed him."

I smiled at her as I pulled out of the lot. Happy wife, happy life. I drove back to the freeway and went east one exit where I got off again. There was a large shopping center to the south with several restaurants in it. Ellen no doubt thought I was going there, but I turned left onto Santa Rita Road instead.

"Where are you going?"

"It'll only take a few minutes, then we'll go to lunch. I just want to check something out. It's only eleven thirty. We have lots of time."

She looked at me quizzically, but said nothing. She was happy enough to be driving around rather than cooped up at home. Tommy was still sleeping. I continued up until I got close to the entrance to the range. Ellen was squirming a bit and had a concerned look on her face. "Cliff," she hissed, "you aren't going to ..."

But before she could finish, I had already turned into the entrance and pulled up to the booth where the deputy guarded the compound. The booth is elevated so the deputy can look down at drivers coming in, see their hands, and so forth. I rolled down my window and pulled as close as I could to the booth. I'd already grabbed Ellen's FBI credentials from the top of the center console. She had a habit of leaving them there with the badge showing, face up, in case she got pulled over by a cop during a surveillance, or, like today, otherwise. I held the credential case up to the guard with the badge showing and told him I'd left my personally owned ear protectors there on the range. He asked me to open the cred

case so he could see the credentials. I hadn't expected that. I opened it up but put my thumb over Ellen's picture. He couldn't read the name from that distance but the "FBI" in big blue letters and the DOJ seal were easily recognizable.

This was a critical moment. Ellen was seething, I could tell. She hadn't given me permission to use her creds. I hadn't asked because I knew she'd say no. She had her left hand on my right thigh and was digging her nails deep into the flesh. It hurt like hell. The deputy looked over at her, but said nothing to her and she didn't rat me out when he made eye contact. He seemed to buy my story, assuming I was the agent and this was my wife. From his angle he couldn't see the baby seat in the right rear.

"Okay, but be back out in five minutes. The range isn't open today."

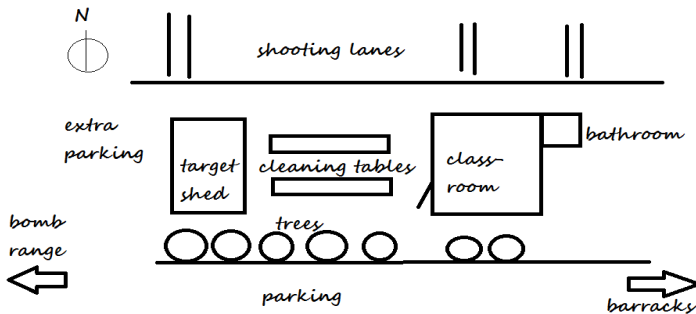
"Will do, unless I have trouble finding them. Ten at the most."

He frowned but nodded and opened the gate for me. I drove on in, made a right on the stretch of pavement that leads to the parking lots and continued on in to where I used to park when I did my firearms qualifying. By this time Ellen had snatched her creds from me and was berating me with a ferocity I hadn't heard in a long time. Any hope I'd been harboring of resuming our sex life any time soon went out the window. I apologized profusely and put the blame entirely on Bert Breen's insistence I check out the shooting scene, but it didn't do much to mollify her.

As I pulled into the lot I immediately noticed that it had changed since I was last here as an agent. The small lot faced north, that is, when you pulled in on the east end you'd make a right and pull up to one of the logs that served as a tire stop so your car was facing north. The gun range was directly ahead of you at that point, to the north, but there was a line of scraggly trees separating the lot from the range, intended as a windbreak, I suppose. Just beyond the trees were several covered tables where agents picked up ammunition and cleaned their guns. Beyond that was the range. The trees had been planted back when I was an agent, at least eight years earlier and the saplings had been nothing but sticks then, but they'd grown and fleshed out quite a bit since then. They now largely obscured the range from the parking lot and vice versa. I pulled out my smart phone and stepped out of the car, taking photos of everything. Ellen climbed into the back seat and took Tommy out of his baby seat to hold him since he'd begun to fuss. I tried to ignore her scowls.

Ahead and to the left was the target shack, a large shed where they stored the paper targets and their wooden frames. When I'd first been an agent targets were pasted onto the frames using a mop, a bucket, and some kind of flour and water paste. After you shot up a target with one course you'd go forward on the whistle, score your target, paste over the holes with little black Post-it type papers and repeat the process a few more times. By the time I'd retired, the wet paste had gone by the wayside and new targets had their own self-adhesive backing. Otherwise the process was the same.

The shed was padlocked and there was no sign of anyone around. To the right was the classroom, where the agents would sit and listen to lectures about gun safety, recent shooting incidents, defensive tactics or new gear, and so forth. Sometimes training films would be shown. I tried to look inside the classroom, since it had windows, but the blinds were closed and the door was locked. I kept taking photos of everything. Attached to the classroom was a unisex bathroom with an outside entrance. Agents had to leave the classroom and walk around to the opposite side of the building to do their business.



I walked out onto the range, but there was nothing much to see, just lanes of concrete and some wooden barriers to the side of each lane, one at fifty feet and one at twenty-five feet from the target area. There were no targets set up. Behind that area was a soft dirt hillside, where all the bullets ended up. It rose gently to a height of perhaps thirty feet before leveling off. Beyond that was a strip of scrub forest, fenced off from the gun range, of course, and even farther beyond was residential housing.

I hurried on over to the barracks, which were situated to the far right, on the other side of the classroom. There were two of them. I didn't know which one had been used for the arrest exercise since there was no yellow tape or other indication of the forensic work. I went into the closest one snapping photos of everything. I didn't see any blood stains, fingerprint powder or anything else that could confirm I was in the right place, just a bare wood-frame building with empty window frames and wood plank floors. At least the layout was as I had remembered it and Woody had confirmed. I photographed everything. I proceeded to the next barracks building and as soon as I stepped in, I could see the layout was slightly different, so I was sure that was not the shooting scene. I photographed that one, too, though, just in case.

I stepped outside and looked around once more. There was nothing more to the east besides an empty field and chain link fence along the access road. To the west, way beyond the target shed, I noticed some activity. There were people there, but I couldn't tell what they were doing. That was not part of the gun range

and I'd never been over there. Then I saw a sheriff's car in the distance headed toward the parking lot. I looked at my watch and saw that I'd been there nine minutes so far. Shit! It was going to get to my car before I could get back, so Ellen was going to have to deal with the officer while sitting there nursing Tommy in the back seat. She wasn't going to be happy. I started to jog back toward the SUV but realized I probably wasn't going to get another chance here and wasn't going to be able to help the situation with the approaching deputy anyway. He wasn't going to arrest Ellen for nursing her baby and he couldn't make her leave since I had the car keys in my pocket. As the old saying goes, I might as well be hanged for a sheep as a lamb, so I changed direction and headed across the gun range.

When I got to the other side of the shed I noticed that there was now a gravel parking area there at a right angle to the lot where my car was. That hadn't been there when I was an agent. Parking had always been tight on firearms days so I guess they'd expanded the area. This was good, since from this side of the shed I couldn't see my car and the deputy couldn't see me. I snapped more pictures and kept jogging to the west across open ground to see what was going on in the adjacent area. As I got closer I realized there was a man carrying a large shoulder-mounted camera and several other people milling around. Well, it looked to me like they were milling around, but I'm sure they were doing something they considered work.

When I got to the group of people I realized they were filming something. From the layout and protective structures I finally realized this was the county bomb range. All our bomb techs had access here for training and experiments, but I never had been on it. No one paid me much mind. I walked up to a youngish Tinkerbell of a woman who was holding a clipboard and running her finger down a sheet of paper.

"Excuse me," I said, "what's going on?"

She looked at me in surprise and replied, "We have permission. MythBusters. We've been here all week." She looked cowed and I realized that because of my suit she had taken me for an official of some sort.

I sensed an opportunity. "No problem. I'm not here from the county. I'm investigating the shooting of the FBI agent that happened last Tuesday. I was hoping someone here might have seen or heard something."

As I expected, she now assumed I was an FBI agent. Who else would be on a controlled law enforcement site on a Saturday in a suit, right? "Oh, I heard about that. I was here but I didn't see anything. None of us here even knew it had happened until we were leaving and saw the ambulance and all the commotion. You should talk to Ron." She pointed to a balding fellow with a slight Australian accent who was talking to a colleague nearby.

I thanked her and moved over behind Ron. I knew I didn't have much time and wanted to get to the big fish before I got kicked out. I tapped him on the shoulder, interrupting him.

"Hey, I'm talkin' here, mate," he declared in an irritated voice as he turned toward me. Seeing me in my suit had the same effect on him as it had on the woman. "Is there a problem?" he said in a softer voice.

"I'm investigating the shooting of the FBI agent that occurred earlier in the week," I announced in my most official-sounding voice. "I'll need a list of all the employees or others who were present here on Tuesday and their contact information."

"We all heard about that but none of us saw anythin'. It must be three hundred yards. We were all working here."

"We'll have to determine that for ourselves. I need the list. It's not a negotiation, it's a murder investigation. Don't make me subpoena you."

"All right. We want to cooperate, officer. See Michael. He'll get it for you. Now can we get back to work? We only have so much daylight for filming." He wagged a finger at the man who must have been Michael, who headed over.

"Do you still have the film or video from that day?" I demanded.

"Christ almighty! That's all at the studio. I don't have that here. We haven't edited the final episode yet. That's all goin' in the dustbin. We were just doin' tests, checkin' for lightin', camera placement, and tryin' to get the experiment to work. We couldn't do the final test filmin' till today because of all the gunshots goin' on by you guys. We're supposed to have this place to ourselves today."

"Don't toss any video or film from that day until the court says it's okay. That's all evidence. You are on notice that destroying it will constitute obstruction of justice."

He looked steamed and didn't say anything for a few seconds. Finally he just nodded and told me to talk to Michael.

I took Michael by the arm and walked him away from Ron. When I got him alone he asked, "Why didn't you come and ask us for this stuff on Tuesday when it happened?"

That was bonus info for me. I'd wanted to ask Ron if the FBI had already questioned him or asked for the footage, but I felt he would realize that if I was FBI I would already know that. Now I knew the FBI hadn't thought to come over to the bomb range. Now we had something that the prosecution didn't.

"Good point. Sometimes the on-scene investigators don't always realize all the resources that might be available. It took some research to realize you were here filming. What were you filming, by the way?"

"We're recreating a scene from a TV show where a car, one with reinforced armor under it, drives over a bomb buried in the dirt and the bomb explodes just behind the rear axle. The car flips end over end and lands on its wheels and keeps going. We're trying to determine if that's possible with real explosives and a real car or whether that was all done with computer animation."

"Sounds like fun," I said enthusiastically, trying to suck up a bit to Michael. I know a lot of guys think it's really cool to blow stuff up, but

personally I never saw the appeal. Noise, dirt, and a zillion ways for somebody to get hurt. Maybe I'm testosterone-deficient, although Ellen never seemed to think so.

"Can you believe they actually pay us to do this," he replied, obviously totally into it.

"Okay, so do you have that contact list?" I asked.

He reached into a satchel he had and pulled out a laptop. After a few seconds he found a spreadsheet with what looked like names and time, probably some sort of payroll document. It also had employee numbers and personal telephone numbers. He showed it to me and asked if this would do. I told him it would do fine. "Give me your email and I'll send you a copy," he said.

At that moment I saw the sheriff's car heading over to this site. It was time to wrap this up. I didn't want to give my personal or business email addresses to this guy since they didn't have a dot gov domain. He'd realize I was a phony. I whipped out my phone and snapped a quick picture of the screen. I checked it to make sure it was readable and then asked if that was everyone. He scrolled down a half a page and held the screen out to me again. I snapped another shot, checked it, and put my phone away.

"Okay, that'll do for now. You'll be getting an official document request when we figure out everything we need. Just preserve everything from that day." I turned to leave.

The sheriff's car was only ten seconds away, so I figured the best course was to meet it halfway, out of earshot of the film crew. I started jogging over toward the deputy, hoping it wouldn't look too suspicious to the crew behind me. Maybe they'd think that was my driver. When I got to the car, the deputy, a florid-faced older man, stopped the car and got out with an angry look.

"What are you doing here?" he demanded.

"I saw the film crew and got curious. They're filming MythBusters, you know? Wow, that's so cool. It's my favorite show. I had to see it for myself. Sorry if I overstayed a bit."

"You were supposed to be out in five minutes. It's been almost twenty."

"Sorry," I said in as sheepish a voice as I could muster. "I'm leaving now." I pointed in the direction of my car, which was obscured from view from this angle by the line of small trees at the edge of the lot, hoping he'd say okay, get out of here. Instead he told me to get in the back seat. I knew better than to argue or try to leave, so I smiled and thanked him and got in. If anyone from the film crew was watching, they probably would think he was my driver.

I sat there in the back, behind the wire mesh and tested the door handle. It was locked. He was transporting me like a prisoner. For several very uncomfortable seconds I wasn't sure if he was arresting me, but he would have frisked me if he were. He drove me back over to the parking lot where my car was and opened the rear door and ordered me out. I obeyed and thanked him again for the ride. He didn't look receptive to the gesture. I got in my SUV as the

deputy watched. Ellen was already sitting in the front again, silent. Tommy was quiet in the back. I started the engine and backed out. I drove out with the deputy right on my tail until I was back out on the public street.

As soon as we were free from the tailgating Gestapo, Ellen muttered, "You. Will. Never. Ever. Use my creds or other Bureau property. Say it."

"I'm sorry. It was wrong, I know. I only ..."

"Say it!", she shouted. "You will never ..."

"Okay, Okay, I got it. I will never use your credentials again. I promise."

"Or other Bureau property. Say it." She was really shouting now. Tommy began to cry."

"Okay, okay. Or other Bureau property. Never again. I swear."

"Cliff, what were you thinking?" she went on. "You could have gotten me fired."

"No, no. Not true. You didn't do anything wrong. You didn't give me permission. It was all me."

"You know it's a felony to impersonate an FBI agent. Or have you forgotten everything you learned in twenty-five years in the FBI?"

"I didn't impersonate an FBI agent. I never said I was an FBI agent or employee. I just said I'd left my ear protectors on the range. That was a lie, but not impersonation of an officer."

"Holding my creds out was."

"I beg to differ. I was holding out creds to show that there was *an FBI agent* in the car, someone authorized to go in."

"Don't be a damn lawyer with me."

Ooh, she just swore. Now I knew I was really in deep. "Okay, you're right, I was trying to give that impression, and that's wrong. I apologize. I'll say 'I'm sorry' as many times as you like. But it was to save a fellow FBI agent, a friend of yours and mine from a possible wrongful conviction, maybe even the needle."

"What were you doing over on the bomb range?"

This was good. She'd changed the subject. "They were filming an episode of MythBusters. They were blowing up cars. I thought maybe someone saw something or filmed something relevant. They were there on the day of the shooting."

"Did you tell them you were an FBI agent?"

Oops. Back on that topic. "I did not. I swear. I just said I was investigating the shooting of the FBI agent earlier in the week. That's the truth. If they thought I was an FBI agent because I was wearing a suit, that's on them. I never said that and never showed the creds or badge because I didn't have them."

She sat in stony silence while we waited at a long stoplight. Finally I ventured a question to her. "What did you tell the deputy when he came to the car?"

“He came up to car while I was nursing Tommy in the back seat. He was obviously embarrassed. He asked me where the agent was and I showed him my creds. He apologized and said he didn’t realize we were both agents. I didn’t correct him. When he asked me where you went, I told him you were out gallivanting around somewhere and that you were in big trouble with me. I told him that when he found you, to tell you that you were going to get a tongue lashing from me.”

I thought about making a risqué joke at that last remark, but decided this wasn’t the time. “That’s good. Thank you for not telling him I wasn’t an agent. He probably figured he didn’t need to give me a ticket or anything. My punishment would be bad enough.”

The light changed and we proceeded on to the shopping center where all the restaurants were. I thought about going to the sandwich shop there, but made a strategic decision to go to the expensive Italian place instead. Ellen loved Italian food. In fact, since the baby was born, she loved all food and in massive quantities. As I pulled up and parked, she asked in a sarcastic tone, “So did you crack the case?”

“I got the layout, took a bunch of photos, and got a list of names and numbers of the film crew. You never know what’s going to be helpful.”

“Big whoop,” was her only response.

I could see it wasn’t going to be easy getting forgiveness. We went into the restaurant and were seated quickly. Ellen had Tommy in the Snugli, and the restaurant had no problem with that. As soon as we were seated she started munching on the breadsticks. Tommy started fussing, but he didn’t have enough volume yet to really bother other diners. Ellen announced that it was time for a diaper change and lifted Tommy out to me. I wasn’t about to shirk that duty, although I wasn’t sure there would be a changing table in the men’s room. I picked up the diaper bag and took baby and bag to the rear of the restaurant. As I left the table I told Ellen to order me the lasagna and a Caesar salad if the waiter came.

As it turned out, there was a changing table in the men’s room. This is California, after all. Men and women are equal and all that. I managed the diaper change and washed up. By the time I was back to the table the waiter was there taking Ellen’s order. I heard her say, ‘and the lasagna for my husband’ as I approached. I saw that he had also brought water and a basket of sourdough, which Ellen was already buttering.

“And a Caesar salad,” I added as I handed the baby back to Ellen. The waiter asked what we wanted to drink and Ellen asked for a large glass of milk. When I said I’d have the same, Ellen told the waiter to change mine to a glass of Chianti. He looked at me and I just nodded my assent. If she’d ordered a glass of hemlock for me I’d have agreed at that point.

We sat in silence for a long time while Ellen scarfed down three pieces of the bread, heavily buttered. When I asked her to tell me about the geocache

with the good camouflage, she brightened. I think the food was helping her mood. She began to describe all five caches and what was good and bad about each of them. I listened carefully and asked a lot of questions. I enjoy geocaching, too, but I had more interest in keeping her engaged and feeling that I cared about her happiness than about the caches.

The food and drinks came. She dug into her salad like a ravenous beast while I ate mine at a leisurely pace. She stole all the croutons off my salad. The glass of Chianti was also there and she took it in hand for a couple of sips. I realized she hadn't ordered it to please me. She'd wanted those sips, but couldn't have a full glass and that was her solution. Fine by me. The rest of the meal went by fine and soon we were on the road home again.

When I got home I uploaded all the photos to my computer and emailed them to Bert. I printed out the two of the film crew spreadsheet, then ran that printout through my scanner. The optical character recognition software got the text about ninety-five percent right. I edited in the corrections, which was a heck of a lot easier than transcribing all those names and numbers by hand.

The rest of the day I babysat while Ellen went out. I put aside all thought of the case and just enjoyed myself. We had leftover blah casserole for dinner, but so what. The Italian food for lunch had been plentiful and delicious.

*Trust ye not in a friend, put ye not confidence in a guide: keep the doors
of thy mouth from her that lieth in thy bosom.*

Micah 7:5

Chapter 9

Sunday morning we slept in. Ellen left me enough milk for the baby and went out shopping for clothes and more baby stuff. I wanted to play with my son but, really, there isn't much playing you can do with them at that age. Peek-a-boo gets old after a few minutes and babies that age tend to just sleep, eat, and poop. Still, I was enjoying the day off. I'd forgotten about the case until two o'clock. The phone rang. It was Maeva.

"Cliff, I did it!" she bubbled, excitement echoing through every syllable. "I got her to talk."

It took me a beat to realize what she was talking about. Of course, the race with Connie Jefferson. "Good work," I replied encouragingly, although I didn't yet know whether it was good or not. "So what did you get?"

"You know that picture of her at the Napa Marathon you showed me? Well, I recognized the shoes she was wearing and I went out and bought the same kind. I can expense that, right? So I went up to her at the race and remarked how we had the same shoes. She said they were the best brand and we started talking."

I didn't need all this detail, and I certainly hadn't planned on reimbursing for new running shoes. Knowing what I did about Connie Jefferson, I figured they were probably at least two hundred bucks for the pair. Maeva was so excited at completing her first undercover assignment, though, that I didn't have the heart to interrupt her. I'd eat the cost of the shoes.

"So then I said my boyfriend was supposed to run the race with me but he hadn't shown up. I asked if she was running it alone. She said she was. I kept it going and after a while we were talking about our boyfriends. She told me hers couldn't be here today. She didn't say why, but if she'd been talking about the Jermaine guy, I figure she wouldn't have said it that way. She'd probably have said, like, my boyfriend died or something. So I figured she meant Woody, you know? So I think Woody's telling the truth about them being solid."

"Okay, that's good. That's good."

"Um, yeah, but ..." and there was an ominous tone creeping into her voice. I could hear bad news coming. "See, I told her how my boyfriend would flake out on me sometimes and how mad I was at him right now. She told me I should make him jealous. That would keep him straight, you know. I said, like, what do you mean, and she said I should just tell him I'm going to dump him for another guy. She said it works like a charm. I asked her would she really do that and she said, and these are her exact words as close as I can remember, 'Trust me, it works every time. If he thinks you're ready to dump him for another guy

he'll do anything to get back in your good graces. He'll kill for you. I mean that literally.' She was almost preening, you know what I mean. It was like she thought Woody killed Jermaine for her."

"She said that? 'He'll kill for you. I mean that literally.'"

"Yeah, she did."

"Great, that's all we need. Did she say anything else, anything specific, like did Woody tell her he was going to get Jermaine, anything like that?"

"No, that was it. Except when I asked how she knew that, had it happened to her, she just said 'Trust me, I know what I'm talking about. I know how to control men.' You should have seen her. She was strutting around like a queen. I was ready to kill her, but I pretended to be in awe of her. With her looks I can believe men would kill for her. She looks like a fashion model and Olympic athlete all in one."

I was totally deflated with this news. I was about to hang up when I remembered to ask Maeva how she did in the race.

"Are you kidding? You think I can run ten kilometers? I ran about a mile, stopped, went off to sit on a park bench, and joined back in when the leaders came running back the opposite direction at the end. I made sure to wait until after Connie had run past me. She was the second woman and was gaining on the leader."

I chuckled. "You pulled a Rosie Ruiz?"

"Who's that?"

"Never mind. Good work. Write that whole thing up in a report while it's fresh in your mind. Mark it Attorney-client confidential. I'll see you on Monday."

"Okay. Thanks, Boss," she replied and hung up. She never called me boss. I knew she was still jazzed about going undercover on a murder case. I would have been happy with a one-page report, but I guessed I'd have a twenty-pager on my desk in the morning.

Now I sensed that the outlook for Woody was dismal. It meant he was almost certainly lying to me about Connie. It sure sounded like she *had* told him she was dumping him for another guy, presumably Jermaine, in order to make him jealous. Whether she really was interested in Jermaine didn't matter. If Woody thought she was, that gave him motive. More important to me, if he was lying to me about that, then I couldn't trust anything he said.

When Ellen got back she was happy about all the stuff she'd been able to get done. I helped her carry in a ton of baby supplies and groceries. After a bit she picked up on my mood and asked if anything was wrong. I told her no, but I don't think she believed me. She didn't press me on it, though. I think she didn't want to hear any bad news about Woody and knew I couldn't tell her anything anyway. She fixed me a nice dinner that evening: waffles with plenty of bacon and fresh strawberries.

* * *

Monday morning back at the office I had a lot of email to go through. I'd postponed a lot of client meetings and other work for Woody's case and I had to make some calls to assuage those clients' concerns. As I'd predicted, I had a long report from Maeva waiting for me, although it was only eight pages, not twenty. The receipt for the shoes was there, too. Sure enough, Mizuno Wave something or other: \$209.99. The report didn't tell me anything she hadn't already told me on the phone. I told her again it was a good report and wrote her a check for the shoes. I managed to suppress a sigh.

By ten I'd put out all of the fires so I gave Bert a call. He thanked me for the photos of the scene and appreciated the list of names of the film crew. Even if none of them had any useful information, he had evidence that the FBI hadn't done a thorough job of investigating. He could use that during cross-examination of the investigators. He told me not to get the video footage from them, at least not yet. He said that if he got physical evidence pertaining to the crime, he'd have to turn that over to the prosecution in discovery. If he did that, then they wouldn't be surprised on cross. I told him that I couldn't get it without a subpoena anyway. It was at the studio and being preserved, but if I tried to get it, they'd find out I wasn't FBI. I also pointed out that he'd have to turn over the photos I'd sent, and at first he didn't get the point. Then I mentioned that those included the pictures of the employee list from the film crew. Sheila Morrissey would realize the oversight when she saw that.

Bert mulled that over and said I was right. He probably would have to turn those two shots over eventually, but he'd try to finesse it. Maybe he could delay that. There was no current court order on him for discovery. The longer he could keep it from the prosecution, the worse it would look at trial for the FBI. They'd run out and interview these witnesses as soon as he turned over the list, but if it was weeks after the shooting, they'd look bad, like they had been trying to pin it on Woody and ignoring other eyewitnesses at the time of the shooting.

Then I told him about Maeva's encounter with Connie Jefferson. Bert cussed a blue streak and then questioned me rigorously about whether Connie had specifically said that Woody had killed Jermaine or had said anything to indicate that he was going to. I assured him that she hadn't. He asked if she had specifically said that she had told Woody, or implied to him, that she was breaking up or that she had any interest in Jermaine. Again, I said no and told him I was sending over Maeva's report.

"Shit, Cliff, I don't think we can use Jefferson now. I was planning to put her on to say she never told Woody she was breaking up with him, that he never had any reason to be jealous of Jermaine. Listen, I need you to interview her now. I need to know how she's going to answer those questions under oath. Did she tell him she was dumping him or not? Did she ever mention Jermaine to him or not? Woody told us no. You know what to ask. I just hope she hasn't told

anyone else the same things she told your investigator. We might still be able to salvage her as a witness.”

“I will, but don’t you think we ought to pin Woody down on this? I didn’t have time to explore that with him on Saturday. He just said they were ‘solid.’ That part seems to be true, but if it’s only because Jefferson thinks he killed for her, that doesn’t help us.”

“I’ll consider that, but not yet. I can’t put a witness on knowing they’re going to commit perjury. I need to know exactly what she’s going to say first. If it’s good, then I don’t want Woody to tell me something that might prove to me she’s lying.”

This kind of lawyerly logic always escaped me. Attorneys do have ethics, but they seem based on some bizarre, arcane written rules, not common sense. It’s not okay to put on a witness who lies if you know they’re lying, but it’s okay to keep yourself ignorant of the truth so that you can put them on to lie in your favor. That wasn’t the way I rolled. My near certainty that I would drop the case at the end of the week had cranked up another notch.

“Okay, I’ll interview her. Based on what Maeva said, I think she’ll be glad to talk to me. It sounds like she wants Woody to go free. Have you gotten any other discovery yet?”

“Yes. I got the digital photos in a USB drive this morning. I’ve got them here. Sheila was right that they’re too big and voluminous to email. I copied them onto my office computer but I don’t want to put them on the cloud. That’s not secure. I need you to come over here and review them or get the drive and take them back to your office. I’m going through them but maybe you’ll spot something I didn’t or be able to explain some things.”

“If you’re going through the photos, it may be a poor use of my time to have me duplicate that now. I only have three more days after today on this. Don’t you think I should be doing interviews?”

“Oh come on, Cliff, you aren’t going to give up so soon, are you?”

“I told you I’d put in a week. That was Thursday. I’ll work through this Thursday and that’s it. I have a business to run.”

“I know you’ll come around. You aren’t going to abandon a friend.”

“I told you to stop trying that guilt trip crap, Bert. My family comes first.”

“Okay, well, get out there and start interviewing then. Oh, and one other thing. I got a list of the personal effects that Woody had on his person at the time of arrest. I’ll email that over to you. And the list of personnel who were out there that day, that sign-up list you told me about. Thanks again for the heads up on that. I’m sending them to you now.”

“All right. I’ll be in touch.” I hung up and looked up the phone number of the Hayward Resident Agency. I knew that’s where Connie Jefferson worked.

I called. She answered the phone, which wasn't surprising since she was the only support employee there. I gave her my name. She recognized it immediately.

"Oh yeah, Cliff Knowles. You just connected with me on LinkedIn. The lawyer who used to be an agent."

"That's me."

"Let me guess. You need a good legal secretary," she said cheerfully, and I knew whom she had in mind.

"Fortunately, I already have one, but if she ever quits, I'll be thinking of you. Connie, I need to talk to you. I'm working with Bert Breen, Woody's lawyer, on his defense. Can we get together right away?"

"Oh." She sounded taken aback, almost disappointed. "Um, I can't just leave here. It's my job. I want to help him, of course."

"I didn't mean right this minute. How about after work tonight? Woody really needs this, Connie, and you need to know what to expect if this goes to trial. You'll probably be a witness. You must have heard by now that the prosecutor said in court last week that Woody killed Jermaine because of you."

"I don't watch the TV news, but someone tweeted me about that. That's ridiculous. Woody loves me and I love him. He's no killer. It must have been an accident."

"Okay, Connie that's great to hear. Can you meet with me this evening? Wherever you want."

"Okay, there's a spot a block from the R.A., The Doghouse. Do you know it?"

"I'll find it. What time?"

"Five thirty okay?"

"Fine. I'll see you there."

"Okay."

I turned back to my computer and saw the email from Bert in my inbox. There were two attachments: the list of personnel at firearms that day, and the list of personal effects taken from Woody.

I looked at the list of effects first and nothing caught my eye as significant. Wallet, car keys, chapstick, belt, holster, gray polyester slacks, gray polyester shirt, pen, credentials, and credential case with badge. Agents were supposed to wear grays for firearms. Those were issued at Quantico during New Agent Training and agents kept them when they went into the field as agents. Many agents didn't follow the rule, but most did because the grays were loose-fitting and had big, strong, seamless pockets that were perfect for holding extra ammunition. When you had to reload under time pressure, those tight-fitting jeans that made your ass look so good were a disaster.

I scanned the list of things in the wallet but didn't see anything of note. I wished there was a better description of the holster. Was it an ankle holster or a belt holster, a five-shot revolver holster or Sig Sauer semiautomatic pistol

holster? And no gun. No bullets. The gun would have been left at the scene and taken into evidence there. There would have been no reason for Woody to have any bullets on him during the scenario. The car “keys,” actually a keyless fob with a house key and desk key on the ring, confirmed what he told me about that. I was hoping he was wrong there since if his keys had been found at the scene, that would open up the possibility that someone else got into his car and put the SWAT bag in the barracks.

I turned to the list of personnel. It turned out to be everyone I knew about already plus one more:

Theodore Fitzhugh III

Barney Chatman

Carl Dawson

Chris Bobu

George Mossberg

Rodney Watkins

Ricardo Garcia

Jermaine Logan

Sherwood Braswell

Trey Fitzhugh was the SAC, the jerk who’d driven me out of the Bureau. I was not expecting cooperation from him. Chatman was the senior Assistant Special Agent in Charge, or ASAC. He was the one I didn’t know about until now. He was a squared away guy and I thought he might be friendly. Dawson was the ASAC over San Jose; Gina had told me he was there at Santa Rita that day, but I didn’t know much about him. Bobu, of course, was the PFI in charge of the scenario and all the training out there. Mossberg was the instructor who had been running the brass through qualifying when the incident happened and the one who helped Bobu on the arrest. The other four were the ones in the scenario.

I didn’t have the 302’s, the investigative reports from the agents, but I didn’t want to waste time. I decided to start my interviews with the people who were not in the arrest scenario since they wouldn’t have much of interest to say, or so I assumed. It wouldn’t be likely I’d need to find discrepancies between what they said in the reports and in person since neither would be harmful to Woody’s case.

I called Carl Dawson, the ASAC in the San Jose Resident Agency. His secretary, Kim, answered. Kim was the squad secretary on one of the squads I served on years ago, so I knew her well. She expressed delight at hearing from me and insisted I come to the R.A. for lunch one of these days. I agreed that it would be great, but was able to avoid committing to a particular date. I really didn’t have time right now for pleasure lunches. I told her I needed to talk to Dawson. She said he wasn’t in but she’d give him the message.

I thought about calling Fitzhugh next, even though I considered that a futile gesture, and an unpleasant one to boot. Instead, I called Barney Chatman, the Administrative ASAC in San Francisco, the senior ASAC in the division. In addition to Dawson in San Jose, there were two other ASACs in San Francisco and one in Oakland, all subordinate to Fitzhugh. I was on hold for several minutes, but then Chatman came on the phone.

"Cliff, how are you?"

"Good, Barney, and you?"

"Doing well. I still can't afford my mortgage, but my house has doubled in value."

"I laughed. That's sounds right. You've been here, what, four years?"

"Close enough. What can I do for you?"

"I've been hired by Woody Braswell's attorney to investigate the shooting. I was hoping to interview you, along with everyone else who was out there that day."

"Have you interviewed anyone else out there that day?"

"Just Woody."

"What did he say about the shooting?"

"You know I can't tell you that. I'm surprised at you Barney, fishing like that."

"We all want to know what the hell happened. Woody clammed up. All we have as an explanation from him is the statement by his lawyer in court that it was accidental."

"He was smart to have done so. It's hard enough for a black man to get a fair trial. You of all people should know that." Barney is a plus-size African-American himself, rather menacing in appearance to the average white citizen I would suppose, but I knew him to be a fair and gentle soul.

"Don't try to play the race card with me, Cliff. Jermaine was black, too, and it wouldn't matter to me anyway."

"I know that. I also know that you're scrupulous about civil rights. A defendant has a right to investigate the alleged crime. So how about it? Will you let me interview you?"

"You have my 302. There's nothing to tell you, really."

"I don't have your 302. The AUSA hasn't sent them to us yet."

"That's odd. We sent them all to her on Friday."

"That doesn't surprise me. Sheila Morrissey isn't known for being forthcoming with discovery."

"Okay, I'll give you the official version. I went to firearms qualification. While I was out on the range shooting, SA Ricardo Garcia came running over shouting at SAC Fitzhugh, who was shooting two lanes over from mine. I didn't hear what he was saying because of my ear protection and the gunshots. I saw the SAC remove his ear protectors and engage in conversation with SA Garcia. SAC Fitzhugh instructed me and ASAC Dawson, who was on the lane next to mine, to

remain there on the range while he went over to the barracks area to deal with whatever was going on there. He left with SA Garcia and SA George Mossberg, who had been instructing us on our qualifying shoot. About five minutes later he returned and said that SA Jermaine Logan had been shot during the arrest scenario going on there and that SA Sherwood Braswell had been arrested. He said that he would take personal charge of the investigation. He told me that SA Bobu had already called for an ambulance, which was on the way. He asked me to call the Evidence Response Team (ERT), to come to the scene, which I did. Then, at the instruction of the SAC, I departed the Santa Rita facility to return to San Francisco to take charge of the division and press matters while the SAC was tied up."

"That's it? There's not much there. You said that's the official version. Is there an unofficial version?"

"Just hang on. I had to give you that much. That's my entire 302, word for word. It's entirely accurate. That's all the boss wants us to say."

"The judge ordered the SAC to lift the order not to talk."

"I know that, and the SAC did lift it, but we all know what he wants. We haven't been ordered to talk; we've just been told we can talk to the defense if we choose."

"Barney, spit it out. Are you saying that's all you're going to give me because you're afraid of the SAC's wrath?" I realized my voice had risen beyond a civil level. If Fitzhugh was still obstructing my investigation I'd have to go to Breen to seek more judicial enforcement.

"Calm down. I didn't say that. Now that I've read you my 302, I can tell the SAC that I told you exactly what was in my 302, just as he wanted. So now that that's done, what else do you want to know?"

This whole case was not like the normal FBI case and that was causing confusion. In the typical case, a crime occurs, such as a bank robbery, kidnapping, or fraud. The victims and perpetrators are all non-FBI personnel. The FBI does investigation and writes up the interviews and other results on reports, the 302s. Those are later turned over to the defense in discovery. The agents who did the investigation are not interviewed by the defense before trial, although they may be cross-examined if there's a preliminary hearing. It's normal for the FBI to refuse to talk to the defense, since the agents are not eyewitnesses to the crime. The defense is always free to talk to the victims and witnesses, the people who are likely to testify about the actual facts, assuming those people are willing to talk to the defense. In other words, the defense is free to talk to the same people the FBI talked to. Here, all the witnesses and the defendant were FBI agents. The defense must be given access to the witnesses, but the instinct of all the agents was going to be not to talk. Still, they had to be careful because if they were too recalcitrant, the defense might claim they didn't get a fair trial. They had to at least appear to be reasonably cooperative.

This interview was not going the way I had hoped. I wanted an in-person interview, but Chatman was trying to satisfy me over the phone. I realized he didn't want to be seen with me in the office and I wasn't sure I'd get another chance with him. I weighed my options and decided just to go ahead and do it by phone while I had him talking.

"Barney, let's start from the beginning. When did you arrive at Santa Rita?"

"A little before nine."

"Who was there?"

"I think everyone except the SAC, but I'm not positive."

"Was Woody there?"

"Yes, I saw him when I arrived."

"What car was he driving?"

"I don't know, at least not from first-hand observation. There were several cars there in the lot. I didn't pay any attention. I believe I found out later he was driving an Explorer."

"Did you ever see anyone else around his car or going in or out of his car?"

"Everyone was in and around the parking lot, which would put them near his car. That includes me. I never saw anyone entering or exiting his car, including him."

"No one opened his trunk?"

"Not that I saw, or at least not that I remember."

"Okay, so what did you do after arriving?"

"I'd picked up a coffee on my way in, so I stood around finishing the coffee and chatting with the others, mainly with Carl."

"With Carl Dawson? Anyone else."

"I think with Bobu. I asked him what we'd be doing and told him I had a lot of work back at the office. He said we'd watch a short film in the classroom, then do the qualifying shoot. He promised me I'd be out by noon."

"Did you talk to Woody?"

"No."

"Did you see or hear him talking to anyone?"

"I think he was in a circle of three or four agents, the other instructors."

"Was he angry, strange, anything out of the ordinary?"

"Not that I noticed. It just looked like a bunch of guys shooting the bull. There was some laughter, but I can't remember by who."

"Did anything happen that you now realize was significant?"

"You mean before the shooting? No. We went into the classroom, watched the movie about gun safety, went outside and collected our ammo for the shooting. The instructors all went over to the barracks area except for Mossberg, who was the one designated to run our course."

"Do you know why he was chosen?"

"I was under the impression that he'd already been through the arrest exercise."

"What gave you that impression?"

"Well, Bobu said 'We're going to run the instructors through an arrest scenario.' Since he and Mossberg were the only two instructors who weren't being taught the scenario, I assumed the 'we' referred to him and Mossberg. Also, I remember signing off on an in-service about a month ago for those two. Bobu and Mossberg went back to Quantico for a firearms instructors' refresher course. I assumed they learned the scenario back there."

"Did you see them, or anyone, go over to the barracks before the whole group left the classroom?"

"Not that I remember. It probably wouldn't have stuck in my mind. The instructors are always going all over the place."

"How about during the film? Did anybody get up and leave, even briefly?"

"Probably. We'd all had coffee, so some of the agents had to take a leak. I think Woody got up once and left during the film, now that you mention it, but I couldn't swear to it."

This is not what I wanted to hear. That meant he had opportunity to get the bag out of his car and place it in the barracks unnoticed. At least Chatman had said he couldn't swear to it. I underlined that phrase in the notes I was taking.

"Anyone else?"

"Probably. I'm afraid I don't keep track of other agents' potty breaks."

I forced a chuckle. This was actually a good statement. If Chatman testified, Breen could use it to suggest that anyone else could have gone out and placed the SWAT bag in the barracks without anyone noticing.

"Good to know. How about Bobu and Mossberg during the movie? Did they stay in the classroom or set it going and leave while the rest of you watched?"

"Both, I think. They were in the back, running the video. Once it got going, I remember Bobu pausing it and pointing out something about one of the safety practices. It was something about a police officer here in the Bay Area who hadn't locked his gun safe and his six-year-old son got a hold of one of his guns. He wasn't hurt, fortunately, but we were supposed to take that as a lesson. So anyway, he was there watching with us at times. I saw Mossberg back there at least once, too, but I was facing front. I remember Mossberg being outside the classroom setting up the cleaning table for us while we were watching. He was making noise that was disruptive; that's why I remember."

"So would you say that either Bobu or Mossberg could have been outside setting up for firearms during the movie at least some of the time?"

I could almost hear the wheels grinding in Chatman's head. "Those are your words," he finally said. "Not mine. I definitely saw both of them in the back

of the classroom some of the time and Mossberg outside setting up the cleaning table at one point during the film.”

“Can you swear Bobu was in the classroom the whole time the movie was playing?”

“No. I can’t swear any of the agents were there the whole time. Like I said, I didn’t keep track of potty breaks.”

“Sure. So when the movie was over, did Bobu and the large group all go over to the barracks area together, or did some go over there ahead of the others?”

“I didn’t notice.”

“Which of the agents there is on SWAT or has been on SWAT?”

“I don’t know from first-hand knowledge. I don’t supervise SWAT, but I think that they all were except Watkins and Garcia. Woody isn’t now, but he used to be.”

“Did you see anyone carrying a SWAT bag at any time during that day?”

“No. Not before the shooting and not after. I left before they took the bag from the scene and I never went over to the barracks.”

“Do you know whose gun it was that fired the fatal shot?”

“No. I’ve intentionally stayed out of the investigation. I’m sure someone has checked the serial number and determined the owner. You’ll have to ask Fitzhugh or wait for discovery.”

“What about Woody’s car? Do you know what happened to it?”

“I don’t. Maybe it’s still out at the range.”

I was tempted to tell him that it wasn’t, but I would have trouble explaining how I knew that. He hadn’t mentioned my Saturday foray out to Santa Rita, so I assumed there hadn’t been any complaint about me, at least not one that made it to Barney’s ears.

“Do you know if it was dusted for prints?”

“I don’t. Again, ask Fitzhugh.” I could tell from his voice that Chatman was getting tired of the questioning. I didn’t particularly care about his comfort level. Sometimes that worked to the interviewer’s favor, but I was afraid he’d soon stop answering questions and I wanted to get in any critical questions I had left.

“Do you think he’ll talk to me? You know our history.”

“I wouldn’t expect much. If he talks to you, it’ll be only the bare minimum he thinks he has to. Maybe a short 302 paragraph like I started with.”

“I appreciate your candor. Can you tell me if there’s an OPR investigation going on this?” I knew that the Office of Professional Responsibility, the FBI’s equivalent of Internal Affairs, was always called in on any case of agent serious wrongdoing.

“I was wondering when you were going to get to that. You know our policy, Cliff. I can’t comment on internal personnel matters.”

“And I know FBI policy is to have an OPR investigation. If they’re doing interviews of the agents involved, we have a right to see those write-ups. They could contain exonerating information. That’s *Brady* material.”

“Woody’s lawyer can make that argument to the judge. We’ll obey any court order. Are we done here?”

I didn’t have any more questions I wanted answered off the top of my head, and I didn’t want to antagonize him. He’d given me a few things to work with and I wasn’t sure anyone else would. I might have to come back to him.

“Sure, Barney. I’ll let you go. Thanks for talking to me.”

“No problem. And if you do talk to Fitzhugh, tell him I read you the exact words off my 302, which is the truth. You don’t have to tell him about the rest of our little talk.”

“You got it. Thanks again.”

I hung up. One more lead checked off the list. I sent Bert a quick email saying I’d spoken to Chatman and that the eyewitness 302s were in Sheila’s possession. I thought a bit more about what I’d learned from Chatman and sent a second email telling him that Bobu and Mossberg had attended an in-service at Quantico recently and that the arrest scenario may have been taught there. He should ask for any documents describing the scenario or how it should be conducted and a list of all personnel present in the class that Bobu and Mossberg attended.

I decided to try Fitzhugh next. If he refused to talk to me, that was probably the best I could hope for. That could always be used to challenge his credibility, his impartiality, on the stand later. I called the FBI San Francisco office once more and asked for him. His secretary went through the same kind of great-to-hear-from-you-again routine I’d gotten from Kim in San Jose. When I asked to speak to Fitzhugh, she put me on hold and within seconds came back and said he was too busy talking to a reporter. I left my number and said goodbye. Two down.

I checked the social media again. I realized I should have asked Woody for his passwords. He was on Facebook, but I hadn’t seen him on any other sites. I’d ask him next time. I started a list of questions I’d need answered. He was already a Facebook friend, so I could see what other people were posting on his page. There were dozens of people posting there, some accusatory and obscene, but most supportive, saying things like “hang in there” or “I’m praying for you.” I recognized a lot of Bureau employee names in the mix. If nothing else, this would give Bert a list of people on Woody’s side, but at this point I didn’t have access to Jermaine’s Facebook account, assuming he had one, and for all I knew these same people were posting there, too. I realized Bert would be expecting me to tell him which sites Jermaine and the other instructors were on so he could subpoena those records from the providers. I asked Maeve to step in and gave her that assignment.

I had almost forgotten about the forum for police firearms instructors, but I checked in there, too. There had been no new activity by Bobu that I could find. I looked at his profile page and it showed that he hadn't "checked in" since the email exchange with my fake identity as Huntress, the Canadian woman. Nothing new there.

I realized it was almost noon and I was ready for a break. I told Maeva I was going out to the gym and lunch. She barely heard me, she was so engrossed in trying to find accounts for all the people on the list. When I got back an hour later she was still hard at it.

I had turned my phone off while I was working out and hadn't turned it back on until I got back into the office. When I did, I saw that Dawson had returned my call and left a message. I called him back and was able to get through. He was a new ASAC and I didn't know him at all other than to have shaken his hand at the last FBI Christmas party. He said he was too busy for a sit down interview, so I had to resort to another phone interview. He confirmed what Barney Chatman had said, that they were out on the range when Garcia came running up to the SAC and Fitzhugh had told him to stay back while he went to deal with the issue. He didn't know what was going on until later. He didn't see or hear anything of use. The SAC has kept him out of the investigation, probably because Woody was one of "his" agents and Dawson wouldn't be neutral. ASACs always thought of the agents under them as "their" agents but the agents seldom thought about it the same way. ASACs and SACs came and went, jumping from lily pad to lily pad on the way to the top. For most agents, their squad supervisor was the only management they cared about, and a lot of those are hopping the same lily pads.

I tried to get him to open up about the period prior to the incident, either before or during the gun safety movie, but he wouldn't discuss it. He cut me off saying he really didn't see or hear anything, that he had thought well of Woody until now, and certainly hoped it had been an accident. Then he said he had to take another call. My efforts to keep him talking were in vain and the call ended. At least he hadn't said anything incriminating about Woody.

I still didn't want to do interviews without the 302s from the firearms instructors in the scenario, and Fitzhugh hadn't called me back so that only left Mossberg as someone on scene but not involved in the shooting. After my experience with the two ASACs, I decided not to telephone him. He'd just try to put me off the way they had. He was an instructor and would have more knowledge about how the scenario was designed or supposed to go than the executives. He'd be more likely to hear scuttlebutt from the other instructors, too. In other words, his was a more important interview and I wanted it to be face-to-face. I decided to drive to Oakland and show up unannounced at the R.A. there. I knew that was where he worked, his regular case work, that is, but I wasn't sure if he was instructing out at Santa Rita today. Most firearms instructors do that

duty on a part-time basis and carry a regular investigative case load as their main duty. That's how it was with me: full-time agent and part-time Legal Advisor.

This plan would have the dual advantage of allowing me to pick up the thumb drive from Bert and put me in the East Bay late so that I could go to meet Connie Jefferson by five-thirty without having to fight cross-bay commute traffic at rush hour. Using my cell phone, which wasn't listed to my business, I called to the Oakland office and asked for Mossberg. After a few rings he answered, but I hung up without saying anything. I had just wanted to verify he was in the office today, but I didn't want to give him any warning I was coming.

It was still early afternoon and I was trying to decide what else I could do before heading over there. If I got shut out by Mossberg and picked up the thumb drive quickly, there would still be a couple of hours before I could meet Connie. I could do a bit of other business by phone, but it would mostly be a waste of my time, unbilled hours when my backlog of work was piling up. As I was contemplating this, the phone rang. Since Maeva was busy with the social media sites task I'd given her, I picked it up myself. It was a detective with the Alameda County Sheriff's Office. I asked what I could do for him and he said he needed to talk to me. He asked if I would be in the Dublin area any time soon. When I asked what it was about, he said he'd rather not discuss it over the phone. I said I'd be in Oakland today and he agreed to meet me at the Sheriff's main administration building in Oakland. This was a tad unsettling, but all in all, it sounded like a good thing, solving my slack time problem, and I might catch a break on my investigation. I guessed that he had some information about the shooting, since, after all, it had happened on the Sheriff's Department's property there in Dublin. He must have gotten my name from Bert, or possibly from someone in the FBI. Now that I'd told Gina and the two ASACs that I was working for Woody's defense, I assumed my name had gotten around.

I called Bert to let him know I would be coming by to get that thumb drive with all the photos and told Maeva where I was going. I got in the rented Prius and headed for Oakland. I tuned the radio to the twenty-four hour news station to see if there was any more on the case, any misinformation Bert would have to correct. As I was crossing the Dumbarton Bridge I was rewarded for my effort with a news flash, although it sure didn't feel like a reward. The announcer said that a "source close to the investigation" confirmed that the gun used to slay FBI agent Jermaine Logan was owned by and registered to the defendant, Sherwood Braswell.

My heart sank. The source had to be Fitzhugh. His secretary had told me he was talking to a reporter when I called, which, of course, she shouldn't have done, but she hadn't known I was working for the defense. That meant the information was reliable. There was nothing I could do about it now, and it wouldn't change the damning fact that Woody had used his own gun. It would, however, taint the jury pool, which was no doubt Fitzhugh's motive in leaking. The SAC would look bad if Woody turned out to be innocent, or even managed

to skate on a hung jury or mistrial since he'd authorized the arrest. More important, though, was that it was looking like Woody had lied to me about one more thing. I was on the wrong side of this one and didn't like it one bit. I'd spent my whole professional life putting the bad guys in jail and didn't want to keep them out. I knew Woody was a decent guy at heart, not really a dedicated scumbag the way most of the defendants in my FBI career were, but even if he'd killed in a fit of jealous rage, not by planning an ambush, it was morally and legally wrong. I spent the rest of the drive gnashing my teeth and wondering how I was going to get out of this one gracefully.

I pulled into the Oakland Office of the Sheriff's Department for my appointment with a few minutes to spare. I had to wait a few minutes for the detective in the rather impressive lobby. This was not a substation but where the high muckety-mucks worked. The detective appeared and introduced himself as Leo Schmidt. He apologized for keeping me waiting but explained that his regular office was in Dublin, so he had to find meeting space here. I told him no problem.

He started to ask me the usual questions about my personal identifiers as though I was reporting a crime, not as one investigator to another, so I stopped him. "Look, I'm retired FBI and I'm investigating the killing myself. I'm afraid I don't have time for a long interview. You can find me easily enough if you need to. Why don't you just tell me what this is about."

He looked at me as though I was the one being odd. Then he reached into a paper bag he'd brought with him and pulled out a bloody piece of cloth. For a moment I thought the sheriff's department must have found a piece of Jermaine's clothing that the FBI forensic team had somehow missed at the scene, but I didn't see how that could be possible.

"Do you recognize this?" he asked me.

"No, not really," I replied. "Can I look at it more closely?"

He handed it to me. When I saw the Hugo Boss label on it, the light bulb finally dawned on me. It must be my jacket, the one the pit bull had gotten the previous week.

"Oh, is this my jacket? It looks like mine."

"A Mrs. Leung provided it to us. She said these business cards were in the pocket. Are they yours?"

"Yes, those are my cards. That must be my jacket. Are you from Animal Control?"

He hesitated. "Yes, I am," he answered slowly.

I still didn't see it so I stupidly babbled on, "But I told her I didn't need the jacket back. Look, the dog was vicious, but I don't want to press charges. It was locked in and I hopped the fence. It was my fault. I suppose that might have been a trespass, but ..."

"So you were trespassing?"

"Uh, right, I guess. Although I had to."

“Why was that?”

I told him about the two punks who were trailing me. He nodded appreciatively as I told the tale.

“Did you report the attack to the police?”

“No, it wasn’t necessary. I got out of there without any serious harm and I didn’t want to get involved in a police investigation.”

“Hugo Boss. That’s an expensive brand, isn’t it?”

“Very. But like I said, it wasn’t Mrs. Leung’s fault. I don’t want to make any trouble for her.”

“That must have made you very angry.”

“Well, I wasn’t happy about it,” I said, thinking this was taking a strange turn.

Schmidt was making extensive notes and I could see a small smile creeping up from the corners of his mouth. I recognized that smile. It was the one I couldn’t suppress when I knew I’d nailed a criminal during an investigation. Too late the danger klaxons started blaring in my brain. He wasn’t investigating the attack on me. It was something else.

“Wait a minute!” I demanded. “What is this about? Are you investigating the attack on me?”

“I’m investigating the killing of the Leung dog. Is that what you did, Mr. Knowles? I can understand how mad you must have been. We all lose control sometimes.”

The tactic was obvious, but I hadn’t seen it coming. What an idiot! I had just admitted to trespassing and being involved in an attack with the dog, which had my jacket in shreds. The punks must have killed the dog and left me to take the blame.

“No, no. I didn’t know the dog was killed. The two guys I told you about must have done it. The one had a switchblade.”

“Yet you told me you were investigating the killing before I ever told you what it was about.”

“Not that killing. This is the first I heard that the dog died. I was talking about another killing. I’m an investigator for an attorney here.”

“Mm-hmm. What killing is that?”

“The FBI agent who was killed. Jermaine Logan. I’m working for the defendant’s attorney.”

“You were an FBI agent and now you’re working to free the guy who killed a fellow agent?” he asked scornfully. “You make a lot of money doing that kind of work, do you?” He fingered the Hugo Boss label.

“No, of course not. I worked with the defendant. He’s an FBI agent, too. I’m ...” but I stopped. I realized that I didn’t have to justify my choice to take the case to this bozo, but I also realized that in his position I might have had the same reaction. I wasn’t getting on his good side, that’s for sure, and as the old saying goes, when you’re in a hole, stop digging. “This is ridiculous. I didn’t kill the

dog. I didn't know the dog was hurt. Check the DNA of that blood on the jacket. It's not mine. I jumped out of the yard before he got me."

"The dog was skinned alive before it was killed."

He waited for my reaction. I was sickened by the news but I wasn't sure how I was supposed to react. "That's terrible, but it wasn't me. I didn't do it. Go looking for those two punks."

"You don't seem to be too upset by the news."

"Of course I'm upset." Finally I knew I was still digging and just had to get out of there. "Look, I'm leaving. I have another appointment. Find the muggers." I stood.

"Sit down. We're not done. You haven't given me a description of the two men you say are responsible. How can we go after the 'real killers' if you don't describe them." He put air quotes around the words "real killers" in an obvious reference to the O.J. trial, his voice dripping with sarcasm.

"We are done. Either arrest me or I'm leaving." I was still standing.

He made no move to stand or show me out. "So you aren't going to help identify the men you say followed you and tortured and killed a family pet?"

I realized he was going to keep questioning me until I said the magic words, so I said them. "I want my attorney. His name is Bert Breen. Arrest me or let me out of here."

Schmidt snorted with a sort of satisfaction, like I'd just proved he was right about me. He took his time jotting some more notes as I stood there. I thought about just walking out of the room, but I knew we'd taken several turns and wasn't sure I could find my way out on my own, and I didn't want to be put in a position of disobeying a lawful order or entering some space I wasn't supposed to. I took a few steps toward the door, but I was bluffing. I wouldn't have walked out. Schmidt called to me as I got to the door.

"You can't go out there," he declared ominously.

I turned to face him and held my arms out close together. "Cuff me then."

He made no move toward me but made another note on his pad. I pulled out my cell phone, which I still had on me and hit the speed dial number for Bert Breen. Schmidt, still looking down as he wrote, hadn't realized what I was doing as I dialed. When I connected with Bert's secretary and told her to have Bert meet me at the sheriff's office since I was being arrested, he looked up and told me to put the phone away. I didn't.

He gave me the dirtiest look I've seen anywhere off a movie screen and stood. "I'll walk you out," he finally conceded.

I made it back to my car a few minutes later, shaken to the core. Why me? I seemed to have a knack for making people think I'm a killer. When I was in the FBI it was the opposite. I was a white collar guy, thick in the middle and bespectacled, a lousy shot, the butt of jokes from the SWAT team and other more studly male agents. I looked like a nerdy accountant, although I'm not sure why

accountants are the ones always picked for that cliché. I'd handled some violent crime cases, but only briefly between assignments working foreign counterintelligence and white collar. They would have laughed at the notion of me being a born killer. But since I'd retired I'd been suspected more than once of homicide. Now it was the torture of an animal.

Unknown to the deputy, I had pushed the End Call button when I was talking to Bert's secretary so she never got the word for Bert to come to my rescue. I didn't have to call back and cancel. I drove over to Bert's office, found a parking place, and went up to his office. When I entered his office he was viewing video taken by the FBI at the shooting scene.

"Cliff, thanks for coming by. I was just skimming through the photos and video."

"Find anything interesting?"

"Not yet. I think this is not a good use of my time and Woody's money. You or your girl can do this at a much lower rate."

"Maeva," I corrected him. "Not 'my girl.'" For a former civil rights prosecutor, Bert could sometimes be pretty insensitive about women's issues. It also ticked me off to hear he was charging Woody a lot more than I was. So far I hadn't been paid a dime and was expecting my bill would never be paid in the end, anyway, so his remark made me wonder if he'd been paid.

"Right. Maeva. So I copied the files onto my hard drive. You take the thumb drive and see what you can do." He handed me the drive.

I took the drive and gave him a brief summary of my interviews with Chatman and Dawson. It wasn't relevant to the case, but I couldn't help myself from telling him about the grilling I got at the sheriff's office.

"Torture of an animal?" he exclaimed. "That's a felony. They take that seriously around here. For Christ's sake, you were an FBI agent and you sat there and admitted trespassing and being attacked by the dog?"

"I know, I know. But I didn't realize what it was about. He said he worked in Dublin, so naturally I thought it was about the shooting. I asked if it was about the killing and he said yes. I thought it was Woody's case, and he thought I meant the killing of the dog."

"Animal control is in Dublin. They work all such cases countywide, like cockfighting, dogfighting, any kind of animal cruelty. So you admitted to knowing about 'the killing' before he told you, too."

"Well, yeah, that's what he thought. Look, I didn't do it and the blood on the jacket should prove it."

"Unless it's all dog blood, which it probably is. You better get behind this, buddy, before it gets out of hand."

"What do you mean? I didn't do it. They aren't going to prosecute me without some actual evidence."

"You obviously haven't ever been a defense lawyer. It happens all the time. And anyway, you should know that what they have *is* 'actual evidence'

even if it's not solid proof. This is the kind of crime that inflames a jury and they're likely to convict anyone brought up on charges, even with weak evidence."

"I don't believe this. What can I do about it? If they don't believe me, they don't believe me."

"You already gave him my name. I know some people over at the D.A.'s office. Let me talk to someone over there and see what I can do. Animal cruelty's a crime of moral turpitude. If they file felony charges against you, you could lose your bar license, even if you never get convicted. Your P.I license, too."

I was beginning to freak out, but I managed to keep my cool. "So what can you do?"

"I have some ideas. Let me handle this."

"How much is this gonna cost me?"

"I pay you, you pay me; it'll all work out. Let's worry about that later. You can't afford to let them file charges, that's for sure."

After shaking my head in disbelief, I nodded my assent and gave him the go-ahead. I took the thumb drive and headed to the FBI office to try to interview Mossberg. It was within walking distance so I got to walk off some of the stress. I stepped out of the elevator at the Webster Street office on the fourth floor and entered the lobby. The receptionist was a young black man I didn't recognize, sitting behind a bullet-proof Plexiglas partition. I identified myself as a retired agent and asked to speak to George Mossberg. He asked me if George was expecting me. I told him no, but said he knew me from when I used to be an agent. He picked up the phone and called a number, then told me to have a seat.

I took a chair and waited. There was no one else in the lobby. I tried to remember what I knew about Mossberg. We'd never worked closely and I didn't know him well at all. I knew he was a tech agent and was assigned to that squad. Tech agents are the ones who do all those things the right-wing paranoids think the FBI does – wiretapping, planting tracking devices or microphones, you get the drift. Of course everything they do is authorized by warrants, consent of the parties being monitored (victims, usually), or other legal process, but don't try telling that to the Tea Party wackos. The left wing, either. FBI-phobia seems to be the one thing uniting the two. Tech agents make a point to dress for the surreptitious nature of their duties. They usually look rather scruffy, often wearing coveralls or utility uniforms, or just jeans and a T-shirt.

I'd been watching through the Plexiglas for George when he surprised me by entering the lobby from the elevator bay behind me. I learned he worked on a different floor and it was faster for him to come down the elevator than the stairwell. When he stepped into the lobby behind me he called out "Boo!" loudly, causing me to start. He laughed at my reaction.

"Gotcha! Hey, Cliff what brings you here?"

"George, I see you haven't changed," I said after recovering my breath. I was referring to the prank, not his appearance. Mossberg had the reputation of a

being a bit of a cut-up and a gossip, although I hadn't been around him enough to have personal knowledge of that. He had helped out on a couple of cases when my squad had needed electronic monitoring of one kind or another and he'd always been all business then. I'd considered him competent and professional despite his appearance, which, as I said, tended to the unconventional. Today he was wearing jeans and a tie-dye T-shirt. His belt had metal studs along its entire length and he sported a bushy, dark brown beard showing gray hairs invading here and there.

"I need to talk to you George," I went on. "Can we go inside?" I knew it was a lot easier for him to terminate the interview here in the lobby. All he had to do was use his employee badge to re-enter FBI space and I'd be stuck out here. If I could get him inside, it would be psychologically harder for him to kick me out or walk away.

"What's this about?" He was smiling but made no move toward the door.

"I'm working for Woody's defense team on this shooting thing. I'm just trying to find out what happened. I understand you were there."

"Ahh, I see. I don't know what I can tell you that will be of any use, but come on in. Are you armed?" he asked.

"No." I knew there was a metal detector built into the doorway.

He made eye contact with the receptionist and stepped toward the door, which made a loud buzz as he approached and opened it. I followed him. He could have taken me into an interview room right off the lobby. Those are separated from the main office space by yet another secure door, but he walked past those to the next door and used his ID badge to open that, holding it for me. This was a good sign. He was taking me into the agents' working space, treating me like a fellow agent.

"You've made quite a name for yourself," he commented as he showed me into a conference room. My name had been in the news quite a bit over the last couple of years on some controversial cases.

"Not in a good way," I replied.

"So how can I help you?"

I asked him to walk me through the day as he remembered it. He answered without hesitation, describing his arrival about eight fifteen and asking Chris Bobu what he wanted done. Bobu had the target shed open and wanted Mossberg to check to see if there were enough targets and to put out the cleaning supplies. He'd moved all the coffee cans out to serve as brass collection buckets. After the agents shoot they have to police up the lanes for spent brass, the shell casings that get ejected, which go into the coffee cans by their lanes and are then emptied into a big box for recycling. He'd placed the cans out and the brass box, and by the time he was done Bobu was starting the lecture so he went into the classroom and sat in the back for that. The lecture was a short recitation of some routine administrative matters pertaining to new protective gear and such. Then Bobu started the safety video. While that was going Bobu had asked him to finish

setting up the gun cleaning table, so he left the classroom and did that, putting out the brushes, solvents, rags, and the rest of it. When he'd finished that he went back into the classroom until the video was over. When it was done he took the SAC and two ASACs over to the range for their qualifying while everyone else went over to the barracks area. This was all consistent with what Chatman had told me.

When he got to the point where Garcia came running over to talk to the SAC, I finally got something new. Mossberg had overheard Garcia say that Braswell had shot Logan. He'd also told Fitzhugh that an ambulance was on its way. Fitzhugh had told the ASACs to stay there and finish qualifying while he dealt with it. Mossberg had to stay on the range and oversee the shoot. Mossberg ran the ASACs through the final course and told them not to bother scoring the targets. He wasn't about to make them reshoot, so he told them on the spot they both qualified, even though he never bothered to score their targets. By the time they'd finished retrieving their targets and picking up the brass Fitzhugh had come back. Fitzhugh said something to both Chatman and Dawson, who left promptly after that, without going over to the barracks area. Fitzhugh had then told him to help Bobu arrest Braswell and transport him to the Oakland office for processing.

I broke in at that point and asked if Woody had said anything. He told me that Woody had said it was an accident and asked how Jermaine was. Bobu had read Woody his Miranda rights and told him to be quiet. They sat him in the back of Mossberg's car. Logan was still alive, he thinks, but Mossberg was standing near the car keeping watch over Woody and couldn't see what was going on in the barracks. The ambulance showed up about that time. Then he drove Woody back to the office to process him with Bobu in the back with Woody. Woody was cooperative the whole time and didn't talk. Nobody said anything the entire drive. He and Bobu processed Woody for photos and fingerprints then took him over to the city jail until he could be taken for his initial appearance before a magistrate.

"Why didn't you take him directly to the federal courthouse for his initial appearance? The magistrate's available in the afternoon."

"The SAC's orders. I think he wanted to consult with the U.S. Attorney to see whether they were going to prosecute. If they'd said no, we would have sprung him loose. At least, that's what Chris told me. We thought about leaving him cuffed in our holding area, but Chris said that would be too humiliating for him, with him knowing his fellow agents were working just on the other side of the door knowing what he'd done, so we took him over to the jail. Nobody knew him there. It took longer than usual to get an opinion from the AUSA. I suppose it was pretty controversial, one FBI agent shooting another, and they had to consult all the way to the top. I guess the evidence was strong enough to satisfy the prosecutors, but by the time we got the word it was too late so he was held over till the next morning."

“What about his car? Did you see him or anyone else going into it or around it?”

“How do you mean ‘going into it’?”

“Did you see anyone open the rear of his car, or the passenger area?”

“I didn’t know what car was his until later, so I wouldn’t have noticed.

He arrived after me and I was busy in the target shed, so I didn’t pay attention to his arrival. I was in the office around four doing my 302 when Chris told me he needed a ride back out to the range to get his car. He said the county needed the range the next day and wanted us to get all our vehicles and crime scene stuff out of there if we could. He said the ERT had finished so we would need to get Woody’s car, too. Woody’s keys were in evidence by that point, so we couldn’t touch those, but the spare keys had been brought over to the scene by one of the garage guys at the SAC’s request so the ERT could search it. The mechanic was still there at Santa Rita, so he drove back to Oakland and then took me and Chris back out. The ERT was just finishing up. I checked to make sure they didn’t need the car and they said they’d photographed and searched Woody’s car. That was the first I learned which car was his. Chris told them we had to get everything off the range and they said it was okay to take his car back but to keep it stored in case they needed to dust for prints or anything, so I drove it back here to Oakland. It’s down in our garage now. Chris drove his own car back to San Francisco, I assume. I stayed late to finish my 302 and went home.”

“What about the next day? Did you transport him to court as the arresting agent?”

“No. Bobu did that.”

“So did Woody say anything at all during processing or any other time?”

“No, other than what I told you. Maybe he nodded or said okay a couple of times when we told him we were going to have to take him to the jail or gave him some instruction. He cooperated the whole time.”

“Woody had an Explorer, didn’t he?”

“Yes.

“Did you open the rear or look inside it?”

“Sure. After I got it to Oakland. Woody was a firearms instructor and former SWAT guy. I knew he owned several guns. Agents with multiple guns usually bring them all to the range on qualifying days and shoot them all on the same day so they don’t have to come back a second or third time. Since there were only a few people there that day, it was ideal for that. We all knew it would be a short day and we could shoot all we wanted after the front office left. Even though the ERT had told me they’d searched the car and photographed it, they didn’t tell me whether they had taken any guns out of it, so I had to make sure he didn’t have any other guns in it.”

“And were there?”

“No. Not when I looked. Maybe the ERT took something before that.”

“How about a SWAT bag?”

"No, Woody wasn't on SWAT any longer, I don't believe. I know he used to be."

"Are you on SWAT, George? Or were you before?"

"No, never. I'm a tech agent, you know that. We don't go out in public, even covered up in SWAT gear. They don't even like us coming through the lobby here. I usually come and go from the fifth floor employee entrance, which is unmarked."

"So you never had a SWAT bag?"

"Nope."

"Do you know if any of the other agents there that day were ever on SWAT? Or had SWAT bags?"

"I'm sure several firearms instructors are or were on SWAT, but I'm not sure which ones have SWAT bags. Chris would have those records, if any records were kept."

"Did you ever see anyone in the area other than the FBI personnel?"

"Nope. There was something going on over at the bomb range, but I don't know what it was. That's way over to the west. I'm sure if any of those folks were to come into our area they'd be challenged and shooed away. Nothing like that happened."

"Did you or anyone else you know of put a SWAT bag or revolver in the barracks area?"

"No. I mean, I heard there was a bag, so it must have been one of the people there, so it must be someone I know, but I never saw who put it there. I assume Woody brought the gun on him, but I didn't see it."

"Did you see Woody or anyone else go over to the barracks area prior to the arrest scenario?"

"No."

"George, is there anything else you can tell me I should know, anything at all?"

He hesitated again and dropped eye contact for a few seconds. "I guess I should tell you that I overheard Braswell and Logan talking before we went into the classroom. I heard Jermaine say something like 'That's bullshit.' That's all I overheard. I don't know what they were talking about."

"Was he angry? Was either one of them angry or showing any signs of unusual ... emotion?"

"I don't know. Agents talk and swear all the time out there, especially when there are no women present. It seemed pretty normal at the time. I didn't even look their way. I was busy laying out the ammunition boxes on the tables."

I looked at my watch and realized it was getting late. I knew the Nimitz was the busiest freeway in the Bay Area and I had to get down to Hayward to meet with Connie Jefferson. I thanked him for his time and left. I hadn't been sure any of the instructors were going to talk to me, so I felt good that I'd gotten one decent interview in. Added to Chatman's information, I was getting a pretty

good picture of the day, but nothing so far looked good for Woody. Quite the opposite.

*Love is whatever you can still betray.
Betrayal can only happen if you love.
John le Carre*

Chapter 10

I arrived twenty minutes late at the bar Connie Jefferson had mentioned. Traffic was even worse than I'd imagined. Thank God I had a Prius with a carpool sticker. I'd have been even later if I hadn't. I entered the bar and had to stop for a minute due to the dim lighting. When my eyes adjusted, I spotted Connie sitting on a stool at the bar. She was drinking some kind of fruity concoction in a highball glass and laughing flirtatiously at the man on the stool next to her. He was about thirty with a beefy build and with well-muscled arms, which were on prominent display since he wore one of those muscle shirts you see at the gym. I pegged him for a construction worker from his rough hands and dirty nails.

I walked up to Connie, stood with my back to the guy, and said, "Hi, Connie. Sorry I'm late."

I felt an iron grip on my right forearm and a gravelly voice say, "The lady's talking to me."

I turned, put my left hand on his shoulder, dug my thumb into the pressure point just above the clavicle, and pressed hard. He yelped and jerked back on the stool, almost falling off. I replied calmly, "Not anymore."

Connie took the cue, stood, smiled at the man and said, "Gotta go. Thanks for the drink, Vasily."

Without waiting for a response from Vasily she walked briskly to the far end of the room calling out in a cheerful voice, "Hi, Cliff. There's a booth over here."

I followed her there as Vasily glowered at my back. At least, I assumed he was glowering. I wasn't looking his direction, since Connie's backside commanded my attention. I reminded myself that I was a married man as I sat in the booth across from her, although the thirty years difference in our ages would have been more than enough to put the kibosh on any notion that I could ever have hooked up with her.

Now that my eyes were fully adjusted and I was looking at her from close range I understood what Maeva had said about Connie's beauty. I'd seen her picture on her LinkedIn page but it didn't do her justice. She had a flawless chocolate milk complexion. Either that or she was very skilled with makeup because I saw no signs it was artificial. Her eyes, a golden brown color, had an exotic Eurasian slant. The word willowy was invented for women like her. She wore a pink tank top under a form-fitting sleeveless blouse in a floral pattern. Although I could no longer see her lower half, I still carried a vivid picture of the painted on mini-skirt that adorned the upper stretch of her mile-long legs. Her

ebony hair was long and lustrous, a genetic gift from her mother. I could well imagine men fighting over her.

"Sorry about that," I began. "Do you know that guy?"

"No, he just bought me a drink. Happens all the time."

I believed this as well, although it led me to wonder whether she would be an asset or a liability to the case.

"Do you come here often?" I asked.

She laughed a hearty and surprisingly low-pitched laugh. "Is that the best you can do?" she finally replied.

"No. I meant that literally. Do you frequent this place? I'm curious about how it would look to the court if you look like you're ... well, in the market, as it were."

"Really! You're quick to judge aren't you?"

"I'm not judging at all. It's just that I'm experienced in how the press can portray things. I've been falsely accused myself and the victim of that kind of bad publicity. I'm just trying to protect Woody."

She didn't say anything at first. She took a long sip of her drink through the slim red straw before replying. "I want to do anything I can to help Woody. We love each other. You don't have to worry about that."

"I'm not here to tell you how to live your life. I'm just an investigator. You should listen to Bert Breen, though, Woody's lawyer. Giving advice is his job."

"Mm. Breen. I got a message from him but I haven't called him back. I didn't know who that was."

"So, Connie, let's start with what the AUSA said in court, that you were dumping Woody in favor of Jermaine. Where'd she get that?"

"I have no idea. Woody's my man."

"Great. Just so I'm clear, you never told Woody you were breaking up or anything like that?"

Again, she didn't answer right away. Another long sip and she replied, "That wouldn't be good for him if I had, now would it?"

My stomach tightened up at this response. "No, it wouldn't," I answered. "So did you or didn't you?"

"People sometimes say things they don't mean, you know," she said dismissively, as though the question was meaningless. "I never told him I was breaking up or wanted to break up. That's what you want me to say, right?"

"I just want to know the facts. So how did the AUSA get the idea you had? Were you interviewed by anyone about your relationship?"

"No, never. Nobody until you." She was already starting to sound irritated.

I realized from body language and difficulty holding eye contact that she was holding back on me. "Connie, please help me out here. It's not helping Woody if you don't tell the whole story. Somebody must have said something to

the AUSA. You work in an office of FBI agents. Someone there must have overheard you on the phone, or talking at a party, or maybe you've shared something with a girlfriend. I need to know who is going to be put on the stand and what they're going to say."

She thought about this even longer than before. "I have a friend Kaneesha, but she wouldn't tell anyone. We were just joking around."

"And what did you say when you were joking around? Word for word, if you can remember."

"I told you, it didn't mean anything."

"Dammit, Connie, you could be put on the stand and asked that question by the AUSA. The judge would order you to answer it and you'd go to jail if you didn't. They could do that to Kaneesha, too. The words are going to come out one way or the other, so quit screwing around."

"Jeez, lighten up already. One time I was talking with Kaneesha when Jermaine came up to me and started talking too, you know, sort of ..."

"Hitting on you?"

"Not really, but I could tell he was interested. Kaneesha could too. She bowed out for a bit and when he left she came back and said something like 'You go, girl.' It was nothing."

"Was Woody there? Did he know about this?"

"He wasn't there. He didn't see this." She took another sip. She was now down to the bottom of the glass and began to make slurping sounds through the straw.

"Connie, don't make me drag this out of you. Did Woody know?"

She sighed. "I never told him, but one time Kaneesha and I were having lunch in the break room. She came down to Hayward to help with some of the typing backlog. Woody stopped in to see me. He told me he'd have to cancel going to a concert that weekend with some lame excuse. She was right there so of course she heard it. She told him he'd better think twice about that because Jermaine would probably be happy to take me. Like that. She was just teasing."

"What did you say then?"

"Woody just laughed and said he wasn't worried, that I'd never dump him for that sorry ass. You know how guys like to talk."

"I repeat. What did *you* say?"

"I was teasing. I just said maybe I would. I said Jermaine's cute. That's all. Are you happy now?" She sounded disgusted.

"I am. I needed to know that. Let's go back to when Jermaine talked to you. When and where did that happen?"

"At the Oakland R.A. There was an all-employee conference up there a couple of months ago. I rode up with one of the Hayward agents for that. I used to work in reception there before I transferred down to Hayward. That's where I got to know Kaneesha. That's where Jermaine works. Worked. After he talked to

us, the SAC was going to go down to San Jose to make the same speech. Woody would've stayed there to hear it."

"And what exactly did Jermaine say?"

"He handed me some routing envelope he said needed to get down to Hayward, but that was obviously just an excuse to talk to me. He could have handed it to one of the agents or stuck it in the office mail. Then he said he liked my perfume. I don't wear perfume, but my hair conditioner has a scent. I told him 'Thank you, my boyfriend likes it too.' He got the hint and left."

"I'm going to have to talk to Kaneesha. I don't know her. She works in Oakland, I take it?"

"Yeah. Kaneesha Lambeau. But she wouldn't tell anyone about that. She wouldn't try to hurt Woody."

"No? Even if she thought he killed Jermaine? She worked with Jermaine didn't she? He was assigned to Oakland. Did she like him?"

Connie thought about this a long time and sucked on her straw absently until she realized she was just getting melted ice. Then she scowled and muttered, "I'll kill her."

"Be careful what you say," I warned. "I know you didn't mean it literally, but you can see how things get twisted or exaggerated by lawyers or reporters. This is a murder case."

"So what should I do?"

I had to be careful. I couldn't tell her not to talk to the FBI investigators because that too would be obstruction of justice. I knew she shouldn't if she wanted to help Woody, but this was especially difficult because she worked surrounded by FBI agents. "Like I told you, listen to Bert Breen. Call him back as soon as you can. Have you visited Woody?"

"Not yet. Should I?"

"Not unless Bert okays it. Remember, you don't have attorney-client or spousal privilege. Whatever you say at the prison will be recorded and used against Woody."

"Okay." Her voice had a quaver now.

I questioned her some more about whether Woody had said or done anything to suggest he might want to kill Jermaine and about Kaneesha and Jermaine, but she didn't have anything else of value. I offered to buy her another drink, but she said one was her limit. She had to stay in shape. When she said she was ready to go I walked her to her car. Vasily gave me the evil eye as we passed by but didn't give us any trouble.

It was creeping up on eight o'clock when I got home. Ellen was fit to be tied. I'd called her to let her know I'd be late but she chewed me out anyway. She'd had a horrible day with Tommy and I was being inconsiderate again in staying out late trying to avoid doing my share of the work with Tommy. She broke down in tears before I even had a chance to reply. I thought we had just

settled this. I had to work to support the family. I was defending Woody, which was something she had wanted me to do. Now I was the bad guy again.

I had planned to tell her about the interview with the animal control deputy, but now it felt like I'd look like I was trying to get sympathy myself to one-up her. I reached out to hug her but she pushed me away. Tommy started crying in his crib at that moment. Before I could say anything she snapped that it was my turn and threw the diaper at me that she'd had over her shoulder. I caught it, said sure, and went in to pick him up. Ellen went sobbing back into our bedroom.

I shed my jacket and picked up Tommy. As soon as I cradled him in my arms he began to suck on my biceps. He obviously wanted food, so I went to the refrigerator to see if Ellen had left me some milk, but there was nothing. I debated whether or not to take him in to Ellen but decided to leave her alone. This outburst was totally uncharacteristic of her. It had to be postpartum depression. As if I didn't have enough worries already, I now grew seriously concerned. I knew the syndrome could be dangerous, even deadly. Suicides and even infanticide were known consequences in severe cases.

My cell phone rang. It was Bert. I couldn't deal with him right then so I let it go to voicemail. I walked into the kitchen and saw dirty dishes in the sink. Ellen had obviously already eaten, which meant I was on my own. I hadn't had anything at the bar, even a drink, and I was starved. Still holding Tommy, I opened the refrigerator, but there was nothing I could make a meal out of in there. I put him down in his playpen, which caused him to start crying again, while I opened a can of pork and beans. I dumped it into a bowl and stuck it in the microwave to heat. I opened a beer and got out the ketchup, a spoon, and a box of saltines. When the microwave dinged, I took out the beans, poured ketchup all over it, and began to shovel the mix into my maw. I finished off the whole can of beans and most of the stack of crackers. Needless to say, the beer, too. Tommy cried the whole time, but there was nothing I could do about it.

I dumped my dishes, such as they were, into the sink, and picked up Tommy again. He began to suck on my arm again, which at least kept him quiet for a bit. I peeked in on Ellen. She was lying on the bed with her back to the door. I couldn't tell whether she was still crying or was asleep. I tiptoed in to get a better look and Ellen rolled over my way. She must have heard me. I could see she'd stopped crying.

"Here, give him to me," she whispered. "He'll give you an arm hickey." She smiled wanly.

I handed Tommy to her and he quickly latched onto her breast. "Are you going to be okay?" I asked.

"I'll be fine. I'm sorry. It's just ... so ... so hard, you know. Being a mother. He won't let me rest."

"I know. I'm sorry, too."

"And my body. I'm still so fat."

"Your body is beautiful. You always wanted a bust like your sister's. Now you've got it."

"You're sweet." She reached over and squeezed my hand.

I just sat on the bed holding her hand for as long as I could, neither of us talking, but eventually I knew I had to get to the bathroom or burst. When I came out, mother and baby were both asleep. I picked Tommy up carefully and carried him away. Ellen was snoring before I was out of the room. I put him down in his crib and this time he stayed asleep.

I changed into sweat pants and a T-shirt and cleaned up the dishes. Exhausted, I flopped onto the sofa and vegged out for a half hour, digesting the beans and beer and thinking about the day. Tommy stayed asleep, thank god.

I called Bert back and summarized the interviews with Jefferson and Mossberg. He seemed unsurprised but uttered a few oaths when he heard the explanation about Jefferson's comments. Whether she meant it or not, she had said in front of Woody that she found Jermaine cute and might go out with him. The prosecution could use that to show motive. The Mossberg interview didn't provide much new, although it fleshed out some of the details of the day.

"We still don't know for sure who put that SWAT bag in the barracks," Bert commented when I was done.

"I know. I'll see if Bobu can tell me. Obviously, the AUSA is going to say it was Woody, but so far no one saw him put it in there. That's something."

"There's still a chance Woody is telling the truth."

I said nothing. I considered it a slim chance. Woody had the keys to his car on him the whole time. It was possible he'd left it unlocked, but he was adamant that he'd locked it and kept those keys. Bert understood my silence for what it was.

"I'm going to ask to have Woody's car dusted for prints," Bert went on. "Especially the rear hatch and the interior hatch release button. And the SWAT bag, too."

"Don't forget the gun, too. Look, it's late and I'm beat. Let's call it a day. I'll get Maeva started on the photos and video in the morning. We know Sheila has the 302s now. Get me those to review before I do the interviews on those people. I'll try to interview Kaneesha tomorrow."

"I confronted Sheila with our knowledge that she got those last week and she sent them over to me this afternoon. They're in paper form only. I've already faxed them to you."

"All right. I'll read them first thing. I'll talk to you tomorrow."

Absence of evidence is not evidence of absence.
Carl Sagan

Chapter 11

The next morning things seemed back to normal. Ellen was in a good mood. She apologized for her crying jag the previous night and chalked it up to her hormones being out of whack. I told her I may have another interview in Oakland and if it was after work, I'd be late again. She told me not to worry about it.

At the office I gave Maeva the digital photos and video to review. Like any sane person, she normally hated reviewing video, but she was still excited enough to be working on a murder case that she didn't protest. She did show obvious relief when I told her she wouldn't have to work for free, despite her earlier promise to do so.

I sat down and started reviewing the FD-302 reports from the agents at the scene. All of them were short, presumably because they were under orders to keep them that way. Mossberg's was consistent with what he had told me the previous day, but just covered the arrest itself. He made no mention of what the other agents said had happened. This was normal, since it would be hearsay and the other agents were going to write their own 302s. He didn't want to put anything in writing that might be slightly inconsistent with whatever they wrote. It was about as favorable as it could be to Woody, mentioning that he was cooperative, and even volunteered to be handcuffed if necessary. There was a mention of Woody's remark that it was an accident, but no other statements.

The two ASACs' write-ups were one or two paragraphs saying nothing more substantive than they didn't see anything and were ordered by the SAC to leave to deal with other matters when Garcia came to report the shooting. Fitzhugh's was even terser. He said that SA Ricardo Garcia had come running to him while he was shooting and told him that SA Braswell had shot SA Logan after yelling "Die, cocksucker." Fitzhugh had then gone to the barracks area to confirm this information and when he did, he ordered Braswell arrested for assaulting a federal officer.

This left Garcia, Watkins, and Bobu, the real eyewitnesses. I read and re-read their 302s several times. They all started with the beginning of the arrest scenario, who was there, who played what role, what happened during the scenario up until the shooting. Since each of the agents was in a different spot, the accounts differed in detail.

Garcia's 302 was consistent with what Woody had told me. He'd been the one who had been in the back of the barracks. He'd ordered fugitive "Jones" out and Woody had complied, then run back into the barracks. He hadn't been able to shoot because other people, possibly including fellow arresting agent Logan, were in the hallway. Garcia had run to the open kitchen window and saw

Woody start to enter the kitchen, but then retreat back quickly into the hall. Garcia had actually shot at him at that point, but probably not in time. Since the guns did not have ammunition, the others in the scenario, including Woody, apparently hadn't heard the click of his gun.

Garcia then ran to the back door and looked in quickly while taking cover to the side. He saw Watkins being led down the hall to the front by Logan. Then he heard the words "Die, cocksucker" as a hand reached around from the open bedroom doorway, and there was a loud explosion. Logan fell to the floor clutching his abdominal area, bleeding. At that point Garcia ran inside where Watkins was already bent over Logan trying to stop the bleeding. Logan was moaning and Braswell was standing in the doorway looking down at Logan. Bobu came rushing in from the front door and saw the situation, then stepped back, pulled out a cell phone, and called 911. Garcia also bent down over Logan and tried to comfort him, but wasn't able to do anything useful besides hold his hand. He noticed a five shot revolver lying on the floor near Braswell's feet; from the smell he knew it had been fired. Bobu then came up to him and told him to go get the SAC and Mossberg. He did this.

SAC Fitzhugh came rushing over to the scene, took a look at Logan and spoke briefly with Bobu and Watkins. Then Bobu and Mossberg arrested Braswell, who was by this time in the front bedroom instead of the back one where he had been at the time of the shooting. Right after that the ambulance arrived and the SAC told them to get away from Logan to let the EMT crew in. He stepped out the back as the EMTs were rushing in the front door. The SAC then instructed him to go back to the office and write a 302 recording what he had witnessed, so he got in his car and left the scene while the ambulance crew was still trying to get Logan into the ambulance.

When I finished reading this, I felt I had a somewhat better grip on the situation, but it was still frustrating to have so much left out. Garcia hadn't mentioned the SWAT bag. Had he even seen it? What about the cars? Did he see anyone around Woody's car? He said he saw Woody standing there after the shot, but didn't describe his expression. Did he look surprised? Aghast? Did he have an evil grin? I looked at the approval initials and saw "TF" there. Theodore Fitzhugh, the SAC, was personally supervising the paperwork. I couldn't be sure, but I was willing to bet that Garcia had put in something about Woody's expression or demeanor but it had been scrubbed. That's pretty normal, and I couldn't blame Fitzhugh too much, since that sort of thing is largely opinion, but it would have been nice to know whether Garcia thought Woody was totally surprised when the gun went off. I would just have to get that during the interview, if there was one.

Next, I tackled Bobu's 302. He started with briefing the participants in the scenario. I noticed that he called it the Two-Fugitive Extraction Scenario, using initial capital letters. He named all the agents there and their roles. Woody and Watkins were the fugitives. He described the instructions he gave to Woody

and Watkins, which matched what Woody had told me. He also described the instructions he'd given to Garcia and Logan, the arresting agents. He'd told them that Watkins, who was playing the role of fugitive Smith, was considered the dangerous one who had used a gun in a robbery. Braswell, playing Jones, was considered the follower, the less-violent one. Bobu said he would cover the side of the house where the bedrooms were so neither could exit the windows there. The other two agents were to take the front and back doors.

He had also warned Garcia, who was taking the back, that "Jones" was known to keep a gun handy in a drawer. This may have explained how Garcia knew to run to the kitchen window, since the kitchen was the only place in the house with a drawer. When the scenario started, Bobu had seen Braswell run back into the house and dodge into the back bedroom. He could see into that bedroom from his position on the side. Since it was a bright day and the room was not lighted, he could only see a general shape rushing into the room and could not tell if he had a gun in his hand. However, he knew it was Braswell because he had seen Braswell run back into the house, and he could tell from the general height and body build of the figure, too. He did see Braswell approach the window, spot him covering from behind a barricade, and go back deeper into the room, bend down, then dash back to the doorway.

Bobu could tell there was a commotion of some sort inside and then heard the shot. He realized something was wrong and rushed in through the front door. After that the 302 matched what Garcia's 302 said, and what Mossberg had told me. The one new fact was that once the ambulance crew had cleared the scene, the SAC ordered everyone to stay out of the barracks until the Evidence Recovery Team, or ERT, had arrived and done the photos and bagging and tagging.

Once again I was frustrated that there was no mention of the SWAT bag or the cars. How had that bag and gun gotten into the room, and why? What was Woody's demeanor? The 302 mentioned that Woody had said it was an accident and that Bobu had read him his Miranda warnings and told him not to talk. He warned him again in the car en route to the office for processing. This was consistent with what Woody and Mossberg had said, but it got me to wondering. Once the warnings are given, the recommended practice in the car is for the arresting agents to remain silent and let the arrestee talk his head off if he wants to. As long as the agents aren't questioning him, everything volunteered is admissible in court. Of course, Woody was a fellow agent, not the typical lowlife subject, and it's not surprising that Bobu wouldn't want Woody to incriminate himself. I was pleased that Bobu had taken this route, but I suspected that Fitzhugh would not have approved, and in fact may have instructed him or Mossberg to get a statement from Woody if possible.

Ron Watkins, the other fugitive in the scenario, wrote with a different style from the others. It was hard to pinpoint what about it was different, but he sounded more intelligent. The grammar and vocabulary were a notch better than

any of the others' 302's, including Fitzhugh's. Especially Fitzhugh's. The facts didn't appear to vary, though. He'd been taken by surprise in the front room of the barracks when Logan leaped through the door unannounced. Since Logan had the drop on him, he let his gun fall to the floor. He complied at first but then took off running down the hall toward the back door when he heard Woody burst in the back. He passed the open bedroom door where Woody was hiding, but did not know he was in there at the time. Logan caught up to Watkins easily and had a gun to his head. Logan cuffed him in the hall then started walking him back toward the front door. As they passed the bedroom door he heard Woody yell, "Die, cocksucker" an instant before a gun was fired between him and Logan. He looked to his right and saw Braswell standing there. The revolver hit the floor at that moment, so he looked down. When he looked up he noticed the SWAT bag in the room and through the window saw Bobu come out from behind his position of cover and run in the direction of the front. From there it was all the same story as the others.

I spent the next hour trying to find inconsistencies in the accounts, but I couldn't find anything significant. Needing a break, I went out to Maeva's desk to see how she was doing with the photos. She was myopic and too vain to wear glasses, so she was hunched over, way too close to her screen. When she saw me approach she looked up, grateful for the excuse to stop concentrating.

"Anything significant yet?" I asked.

"No smoking gun, if you'll excuse the expression. At least I can't tell if it's smoking."

She clicked her mouse a couple of times and a photo of the gun appeared. The shot was taken from the direction of the window looking toward the hall. The butt of the gun was closest to the camera with the barrel facing toward the hall. It looked like any other small revolver to me. I was never into the whole gun culture and I couldn't tell a Colt from a Smith and Wesson or any of the many other makes out there. The cylinder was closed, but I could see the rims of more shells in the cylinder. The gun had been fully loaded before the fatal shot, it appeared, and only one round was spent. One could make the argument that if Woody had really been trying to kill Jermaine, he would have fired more than one shot, but I knew that was weak. Woody could not plausibly contend he didn't know the gun was loaded after firing the first shot, although it was plausible that he could reflexively pull it twice since agents are trained to double tap. She showed a photo from another angle of the same gun. The serial number was right there on the butt.

The next photo she brought up for me was one of the SWAT bag. The zippered end pocket was unzipped. I couldn't tell whether the shape of a gun would have been visible if it had been zipped shut with a gun inside. The main section was zippered shut. I asked for any more shots of the bag. Maeva brought up a shot showing the main section unzipped and with the contents still inside, but it was hard to see what was in there. The next one showed the same thing

with all the contents pulled out and displayed on the floor. There was a large baton, a set of handcuffs, a pair of boots, a packet of plastic flexcuffs bound together with a twist tie, an ankle holster for a small revolver, a hip holster for a small revolver, a first aid kit, a raid jacket (blue with big white letters saying "FBI"), and a BPU, or ballistic protective undergarment, the FBI's prolix term for a Kevlar vest. The vest was the largest item in the bag. The FBI's vests are thick and heavy, much more substantial than the ones worn by police officers, because they are worn outside normal clothing and only in hazardous situations; most police officers wear vests all day long every day on patrol, typically under their shirts, so they're thinner and have a smaller profile.

There were a few more items, but my eyes stopped on the vest. Written in black Magic Marker on the white BPU was the single word "Braswell." So it was Woody's SWAT bag, unless someone was setting him up. I asked Maeva to print that one out and the one of the gun's serial number, too. Woody was still insistent that the bag and gun couldn't have been his and I wanted to hear him deny it again when I put the photos in front of him. Maybe he'd say that wasn't his handwriting, but I was expecting him to finally come clean. Woody was a big guy and wore an extra large vest, which meant the bag was quite heavy. At least it was plausible that the extra weight of the revolver might not have been noticed. Maybe Woody put the bag in the room for some unfathomable reason and just forgot the gun was there.

The pictures of the hallway where Logan had fallen were surprisingly free of blood. I guessed that he'd fallen straight down and then backward, lying on his back. If the bullet hadn't penetrated all the way through his body, the gut wound would be on top. The other agents were there trying to stanch the bleeding with pressure, so it was possible the bleeding was mostly internal with only a little soaking of his shirt or pants in front. That told me the bullet would be found inside Jermaine's body. That would either match Woody's gun or it wouldn't, but I suspected that bullet had already been retrieved and matched. It had to match since there was no dispute that Woody had fired the gun and dropped it right at the scene. The serial number would prove it was his. They didn't need the match from the bullet, but I knew they'd get it anyway just so the Bert Breens of the world wouldn't be able to raise doubt in the mind of some gullible juror.

I looked through a few more photos but there really wasn't much to see. The barracks, the hallway, the bedroom with the SWAT bag, the revolver on the floor and a semiautomatic pistol in the kitchen drawer. That would be Woody's service weapon, a 9mm Sig Sauer. It was photographed in the open drawer, then again on the counter with the slide drawn back showing an empty chamber. Next to it in that photo was the magazine that fit in the grip. It, too, was empty. The gun was unloaded, as it was supposed to be. I wondered about the other guns. What happened to the ones carried by the other four agents? Presumably the three arresting agents would have retained their guns in their holsters when they left the scene, but Watkins had been disarmed during the scenario. His service

weapon should have been on the floor in the front room. There were no photos of that gun, though.

These had all been still photos and there weren't all that many. I asked Maeva about the video and she said she hadn't finished looking at it. She pulled up that window on her screen and I could see the progress bar at the bottom less than halfway through. She marked the spot down on a piece of paper so she could return to it and asked if I wanted to see the video from the beginning. I said yes, but told her to fast forward through it so I could tell her to stop it when I saw something interesting.

The shots of the interior of the barracks didn't look interesting from what I could make out at that speed. I had her slow it down to normal play when the video came to the front room. There was no gun there. The trip through the kitchen showed the drawer closed and no gun, so it must have been made before the stills were taken. I saw no blood. At one point Maeva said there was something strange: there was no shell casing shown anywhere. I had to point out to her that the shot had been from a revolver, not a semi-automatic, so the shell would stay in the cylinder. She knows nothing about guns. The SWAT bag was closed. So far, it was boring. Then something did pique my interest: the search of the car.

The videographer approached the car from the barracks, which probably meant it was done after the ERT had been there awhile and other people may have been coming and going. As the camera approached the car I noticed several other cars in the lot on the far side of the white Explorer. There were two Expeditions, both bronze, a gray Ford Taurus, a beat-up extended cab Ford F150 pickup, a red Dodge Charger, a new-looking blue Buick, maybe a Lacrosse or a Regal. I pegged that last one as the SAC's car, since the ASACs had already been sent away by that time. A brand new Buick probably would not go to a brick agent on the ERT. Those were the only ones I could make out, and it took several times through to get those. At least I had a good idea that the SAC was still there at that point, although I wasn't sure that was important. Because of the camera angle I couldn't tell if there were other cars farther away in the lot.

I was trying to figure out who the pickup belonged to. Not all agents had government cars assigned to them, so it wasn't unusual for an agent to drive his or her personally-owned car or pickup to firearms, but I'd have been very surprised if an agent would drive a personal car all the way out to Santa Rita to do an ERT search. They'd find a ride with someone else on the ERT who had a Bureau car. All the agents and ASACs who had been there at the time of the shooting had been sent away by this time, I thought, so I assumed it was only ERT people and the SAC. Then a figure appeared that answered the mystery: the garage mechanic. His name was Rory Zimmer and he had predictably acquired the nickname Dimmer, which owed its genesis as much to his mental acumen as it did to his name.

Zimmer held up the single car key fob to the camera, then handed it to one of the ERT agents, a middle-aged woman I didn't know. She moved toward the Explorer's passenger side. With a gloved hand she tried to open that door manually, then all the other doors and the liftgate without success. This was to demonstrate that it was locked. Then she used the button on the key fob to open up the driver's side door. The video camera panned around the interior of the vehicle, showing nothing of interest there. When the ERT woman got to the rear area, she opened it. There were the usual sorts of things in the trunk – an emergency road kit, a blanket, some bottled water, another first aid kit, but no SWAT bag.

The video scene stopped and resumed with a similar search of the red Dodge. There was no narration, but I presumed this was the car Jermaine had driven. The interior held nothing interesting but the trunk contained a laptop. The video showed the same ERT woman putting an evidence sticker on it, initialing it, and putting it into a box.

I stopped watching at that point because the phone rang. It was Kaneesha Lambeau.

"Is this Mr. Knowles?"

"Speaking."

"This is Kaneesha, Connie Jefferson's friend."

"Hello, Kaneesha. I'm glad you called. I wanted to talk to you."

"I don't know what she told you, but I did not sell out Woody." She sounded agitated.

"You're talking about Connie? She never said you did."

"I did not talk to no prosecutor. If she said that, it's a lie."

"Take it easy. She didn't say that. Obviously someone told the AUSA that there was trouble between Connie and Woody. Do you know how that happened?" I was careful to phrase it that way rather than ask specifically who it was, so she wouldn't consider herself "selling out" anyone.

"It could have been anyone. Jermaine had a lot of friends. A lot of people knew he was hot for her. I told him she said she thought he was cute."

"Okay. So what do you think about Woody? Did he ever say anything or do anything to make you think he was jealous of Jermaine?"

"Not that I saw. But Jermaine was still trying to make it with Connie. That girl, she flirt with him, you know."

"Tell me."

"Let's just say she likes to keep her options open. Always have another one on a string, you know what I mean?"

"I think I do. Tell me something, Kaneesha. I assume she called you and told you about our conversation. What did she say?"

"She said I sold out Woody because I was hot on Jermaine. That's a lie."

"Was Jermaine a close friend of yours?"

“Not like that. I’m married. She knows that. Sure, I thought he was cute, too. He was pretty fine, but I’m not lookin’ for someone else. Woody, he’s fine, too. I don’t know what happened out there that day, but Woody had reason to be jealous. Jermaine was tryin’ to move in on his territory.”

“Has anyone interviewed you, or just asked casual-like about this? An agent, I mean, anyone who might be investigating the incident.”

“No one. I’m keeping my mouth shut, but I don’t want Woody thinkin’ I sold him out. You tell him that. I don’t know anything. That’s my story if anyone asks. They put me on the stand, that’s all I’m sayin’. I don’t know anything.”

“I’ll tell him, Kaneesha. You’ve been a big help. Thanks for calling.” We hung up.

This was one more nail in Woody’s coffin. I didn’t believe for a minute that Kaneesha would keep her mouth shut if she was put on the stand. She’d spilled everything to me without me half trying. She said she’d keep her mouth shut, but obviously she wasn’t reticent with me, a total stranger. I wouldn’t be surprised if she ended up in grand jury, if not as a trial witness. A potential motive of jealousy was looking more and more clear. I wasn’t sure how much Woody knew about Jermaine’s designs on Connie, but a jury wouldn’t have a hard time believing the worst.

San Francisco has always been a haven for misfits and weirdos. I'm both of those, which is why I came here.

Michael Franti

Chapter 12

I didn't want to call any of the eyewitness agents. I'd learned that I wasn't likely to get a face-to-face interview if I called first. If I wanted one, I'd have to surprise them at work, like I did with Mossberg, or at home. I wasn't sure which was better. It had worked out okay with Mossberg, but I thought the agents were more likely to be guarded in the office environment. On the other hand, they might resent me showing up at their home and interrupting their family lives. I decided to take my lunch break while I thought about my next move.

After a short workout with heavy weights and a quick half sandwich, I returned to the office to find that Bert Breen had called. I called him back.

"Cliff, I just got off the line with the D.A.'s office. They're planning to file animal cruelty on you. You can't let that happen. I've gotten them to hold off for now. Can you come over here tomorrow?"

"I can't believe this. I'm attacked by muggers and a dog and I'm the one they choose to prosecute. What's happening tomorrow?"

"One of the reasons they think you're guilty is that you refused to help identify those two thugs you say followed you."

"The ones who followed me, not the ones I *say* followed me."

"Of course, the ones who followed you."

"And I didn't refuse anything. It was a subject interview, Bert, not a witness interview. I was an FBI agent for twenty-five years. I know the difference. He was trying to get admissions, not evidence. For Pete's sake, you of all people should understand why I invoked. I shouldn't have talked as much as I did."

"I get it. I get it. But the deputy must have told it differently to the D.A. So I've arranged with someone I know over at OPD for you to look through mug books and try to identify the muggers. I'll be with you to make sure they don't question you. Can you come?"

"Christ, I guess I'll have to. As long as I'm coming over, can we go see Woody again? I've talked to Kaneesha and it's not looking good on the motive front. Logan was still going after Connie Jefferson according to her. We need him to come clean on the relationship situation."

"What about the video? Did you see anything there?"

"As Maeva said, no smoking gun."

"She's a regular comedian."

"It's looking bad there, too. The SWAT bag and gun were his."

“Yeah, I saw the lettering on his bulletproof vest. I agree we need to get back with him. I can arrange that for tomorrow afternoon. We can do the lineup thing in the morning and then head out to the prison.”

“Okay. Oh, and they took a laptop from Jermaine’s car. You should do a discovery request for a full copy of that hard drive. They’ll probably be getting any records that might show communication with Jefferson or Woody. E-mail, texting, chat, phone records, the works. Get your hands on that.”

“I’ve already asked for all that social media stuff, but I didn’t know about the laptop. Anything else?”

“Yeah. I noticed in Bobu’s 302 that he called the arrest exercise the ‘Two-Fugitive Extraction Scenario’ like it was an official scripted thing. You should ask for whatever records would show what that is. Maybe a layout diagram. It may give us an idea how that bag got in there. There might be some written records back at Quantico. Bobu had just been back there on an in-service, as I recall. Maybe he was taught that exercise then.”

“Okay, good. Anything else.”

“Not that I can think of now. I’ll let you know tomorrow if I come up with anything else.”

“Alright. See you then. Come here first, ten o’clock. We’ll go over to the PD substation in Chinatown. That’s the closest one to where the attack happened and they have the mug books.”

“I will.”

As soon as I was off the phone with Bert, I called Ellen to see how she was doing. She said everything was fine and apologized for her outburst the previous evening. She didn’t sound all that chipper, though, and I wondered if she was just putting on a brave face. I told her that my interview in Oakland wasn’t going to happen today, so I should be home at a reasonable hour. That was one benefit of Kaneesha calling me.

The more I investigated, the more it seemed there was to do. I’d have to delegate more of it to Maeva, if I could figure out what she could do. The most important items on my list were the interviews of Watkins, Bobu, and Garcia. By looking at the FBI office telephone lists I’d determined that Watkins and Bobu were both assigned to San Francisco in the Training Unit. Garcia was assigned to the Concord Resident Agency, an East Bay city fifty miles away, and lived all the way out in Benicia, a small city that consisted primarily of a huge oil refinery and a few tract houses. It was in the FBI’s Sacramento Division territory. Bay Area housing was so expensive that young agents often lived as far away as possible. I didn’t want to drive all that way without knowing whether he was around and willing to talk to me.

I decided that it was worth the risk to go up to San Francisco and try to catch either Bobu or Watkins at the office. That drop-in tactic had worked out well with Mossberg and it was more difficult to refuse to talk when someone was

right there. I made sure I had the 302s accessible on my smart phone and told Maeva where I was going.

I drove up to the Millbrae BART station and parked. Trying to find parking in downtown San Francisco is a nightmare. I rode in on the train and got off at the Civic Center stop. It was a short walk to the federal building. The building is two blocks away from City Hall, which is probably the most beautiful building in the city, but sits right on the edge of the Tenderloin, a rundown district best-known for the flophouse hotels full of winos and drug addicts. At least there were no demonstrators when I walked into the lobby.

This time the receptionist, a young Asian woman, knew me and greeted me by name when she saw me walk in. I'd worked there briefly as a squad supervisor, before I quit, but already I'd forgotten her name. I smiled and said that awkward "Hi, it's great to see you again," back that you say when you can't remember the other person's name. I quickly asked if Chris Bobu or Ron Watkins was available. She called a number and said something I couldn't overhear through the bulletproof window, then hung up. There was a perforated metal disk in the Plexiglas that was supposed to make conversation possible, but it only worked if both parties leaned close and almost shouted. I thought she would ask me to wait on one of the government-issue sofas but instead she asked me how retired life was. I was reluctant to get into a conversation with her because I still couldn't remember her name or anything else about her, except that she wasn't in Reception when I'd been there. She must have been in the typing pool or someplace else. I babbled something inane in response for a minute or so when I was rescued by her phone ringing. She held up one finger and picked up the phone. Then she turned to me and said someone would be right down.

I knew at that point that I wasn't going to have any luck. If it was Bobu or Watkins she would have said so. Within seconds the door opened and Miranda Little, the Principal Legal Advisor, came out. She was a few younger than me and, like me, had started to put on weight when she'd hit forty. Her ill-fitting pants suit looked like it had been purchased when she was ten pounds lighter. She wore half-glasses hanging from a chain around her neck. The only makeup she wore was a conservative shade of lipstick. Her cheeks were peeling like she'd been sunburned a week earlier. I remembered that she was a skier.

"Miranda, how are you?" I said warmly, acting glad to see her. Actually, although I would rather have seen Bobu or Watkins, I didn't have to act, since I genuinely liked Miranda. She and I had both been Legal Instructors at the same time some ten or more years earlier. That's a part-time job in the FBI, another hat to wear when you aren't doing your regular case work, just like most of the firearms instructors. I'd gone on to become a squad supervisor and she'd become the PLA, a full-time attorney position.

"Cliff, you hermit. You never make it up here to the functions."

“Busy, busy, busy. You know how it is. I have a new baby and a business to run.”

“A baby! I didn’t know that. Congratulations.”

“Thank you. So let me guess, someone sent you down to get rid of me.”

She laughed. “Something like that. Neither Chris nor Rod is available. Sorry.”

“Miranda, you know there’s a court order.” I hadn’t said why I wanted to talk to them, but they all had to know by now I was working on Woody’s defense. The only reason to send the PLA to deal with me was if it involved a legal matter.

Still smiling she said, “And you know that it only says the employees can’t be ordered not to talk to you. It doesn’t say they must talk to you and it doesn’t say we have to make our facilities available to you for that purpose. They have important work to do during work hours.” She kept a straight face while she said it but I knew her too well.

“Firearms instructors here at their desks have important work? What? Dry firing at the wall?” I grinned.

“Probably practicing marksmanship playing Call of Duty,” she said dead-pan. “Sorry, Cliff. If you’re going to talk to them, you’ll have to catch them off-duty and not here.”

“At least tell me which one sicced you on me.”

“Now, now, attorney-client.”

“I’m not asking you to tell me what they said, only which one called you. If he doesn’t want to talk to me, I can’t make him, and you know I’m not going to harass anybody. But if it’s only one of them trying to dodge me, please don’t make me chase them both down. You’re saving Woody money by not wasting my time. Give him a break at least. You can tell me without telling me.”

She thought about this for a moment, then replied, “Watkins is out of the office right now.” This told me that it was Bobu who had gotten the call from reception and then called her. I still had a shot at Watkins.

“Okay, thanks. How are the kids?”

“My daughter’s a junior at UC Santa Cruz. My son’s a senior in high school. He’s still trying to decide. Five more years before I can retire, unless I hit the lottery.”

She said this jokingly but an instant later I saw the shadow cross her face that I see too often when people realize they’d made a faux pas. I’d been able to retire early only because of the multi-million settlement I’d received when my first wife had been killed. Miranda realized that her comment could be interpreted as suggesting she thought I’d lucked out when Fredericka had been killed, the way Rick Porillo had. I knew she hadn’t meant that, but it was still painful to be reminded of that time. I tried not to let it show.

“That’s great, Miranda. I look forward to helping Tommy pick a college, too, if I’m not too senile by then. I’ll let you get back to it.”

I could see the relief flood her features when she saw I wasn't upset. "It really is nice to see you, Cliff. Good luck." She took my hand in both of hers and gave it a squeeze. I pulled her toward me and turned the hand squeeze into a quick hug, which she returned with obvious sincerity.

There was no point in hanging around, so I left the lobby. Back down on the street I tried to decide whether to hop back on the train and call it a wasted trip, but figured that as long as I was up there, I might as well take my shot at Watkins. I knew that supervisors and a few senior agents had parking spaces in the basement of the federal building, which was guarded, but most agents in San Francisco had to park in a separate garage a few blocks from the office. It was a multistory garage with public parking on the lower levels and exclusive FBI parking on the top level. You needed an electronic key card to get the heavy metal gate to open on the upper level, so the public couldn't drive in. I strolled through the Tenderloin, taking in the wafting stench from the winos until I reached the garage. I passed one agent I knew walking the other way and chatted briefly. He didn't mention the case and neither did I.

As I approached the garage I looked around for any other Bureau employees, but didn't see any. I walked up the fire exit stairs to the top floor. From the inside the fire door opened outward with just a push bar, as required by fire code, but it was locked from the outside, again needing an electronic key card. I went back down one floor and found that I could enter there. I walked over to the auto ramp that led to the top floor and took a spot standing between two parked cars close to the gate. It took only seven or eight minutes for an FBI car to drive up the ramp and approach the gate. I looked at the driver long enough to be sure it wasn't Watkins then bent over as though tying a shoe or picking something up. I heard the rumble of the gate as the chains lifted it slowly. The car drove through, negotiating the sharp left-hand curve up the ramp. I slipped in under the gate as it was closing. Because of the curve, the driver couldn't see me.

I waited just inside the gate until I heard the thunk of a driver's door closing followed by the creak of the pedestrian exit door. Then I walked farther up the ramp into the parking area. No one was around so I found a spot where I could discreetly watch who came and went. There was a sign saying "Private" on the gate but no signs saying "No Trespassing" and I was sure I wasn't doing anything illegal; but I also knew I'd be pissing off some FBI personnel if they found me up there.

I realized that I didn't know what kind of car Watkins drove. For all I knew he commuted by bus or train from the East Bay where he lived. Still, with his seniority the odds were good he had a Bureau car assigned to him. With free gas and free parking available, he almost certainly commuted by car and parked here on days he wasn't out at the range. Since I knew Bobu was in the office from what Miranda had said, I also knew it wasn't a Firearms training day. I had a good chance of spotting him before the day was over.

It took longer than I thought. After two hours of hanging out up there I still hadn't seen him. During the entire two hours, only one pair of agents saw me in the corner. They were young and didn't know me. I nodded and opened my briefcase on the hood of the car where I was standing and started looking through it. They looked me over and nodded back tentatively. As a well-groomed white guy in a suit holding a briefcase in the FBI garage in the heart of the Tenderloin, I must be another agent, they no doubt assumed. The fact that I was twenty years their senior and held myself with confidence no doubt added to their reluctance to challenge me. They walked down the stairs.

Another half hour passed before I was rewarded for my effort. Watkins drove in and parked. No one else was in the car with him. I walked over to him as he got out of the car.

"Jeez, Cliff," he said, startled, "What are you doing here?"

Of all the agents in the arrest scenario, Rod Watkins was the one I knew the best after Woody. We'd served on the same squad for about a year when he first transferred in from his first office. He'd been in his late twenties then, which put him at about forty now. He was already graying at the temples, something I'd managed to avoid even into my fifties, but in his case, it gave him a grizzled, authoritative air, which is a good thing for a firearms instructor. He was a fitness buff, too, which was typical for those instructors who also taught self-defense and arrest techniques. Much of the FBI's instruction is to local officers, a responsibility not well known to the general public. Cops respect guys who look like Rod.

"Waiting for you."

"This is about the shooting, isn't it? I heard you were working for Woody."

"Yes. He needs someone to help him. Do you have a few minutes?"

"Not here, Cliff. I'll talk to you but we'd both get in trouble if anyone saw us up here."

"There's a court order that says ..."

"I know what it says, but the SAC personally came into our unit and told us he was rescinding the order not to talk to the defense, but he also looked us right in the eye and almost shouted that we didn't have to talk to you. He asked about five times if we understood. He said the order gave us a choice and we should remember what side we were on when we made that choice."

"He's an SOB. Woody deserves a chance for a defense. I'm just trying to find out what happened."

"Follow me. There's a coffee shop a couple of blocks over that no one goes to."

He led me down the stairs and peeked out the exit door to the street before waving me out. No one but a mentally ill panhandler or two saw us together so far as I could tell. Once in the coffee shop Watkins spoke freely.

“Cliff, I don’t know that I can help. I was right there and Woody gunned Jermaine down.”

“I know he shot Jermaine, but I’m trying to figure out how and why it happened. I read your 302. You’re the only one who mentioned that SWAT bag in the bedroom. Do you know how that got there?”

“The SWAT bag? Why? What does that have to do with anything?”

I found this response interesting. Apparently he didn’t know that was Woody’s bag. When I thought about it, it wasn’t that surprising. The eyewitnesses had been shoosed out of there to do their 302s almost immediately. It was the ERT who came in later and did the search and crime scene photos. That’s when they found it was Woody’s bag. Woody hadn’t said anything other than it had been an accident. Watkins, and maybe all the agents in the scenario may still think Woody had carried the gun in an ankle holster or waistband. The news leak had said the gun was his, but hadn’t said anything about the SWAT bag. I decided there was no harm in telling him it was Woody’s. The prosecution knew it already.

“That was Woody’s SWAT bag. I’m trying to find out how it got into the barracks. Someone had to put it there.”

“Ahh. That explains one thing.”

“What?”

“Well, when the gun went off, Woody’s eyes got big as saucers and he dropped the gun like a hot potato. So you’re saying he didn’t carry the gun in?”

“I’m not saying anything, Rod. I’m just asking questions. Did you see him bring that SWAT bag in? Or see him with the revolver before the shooting?”

“No.”

“Did you see anyone else with that bag?”

“No. I wondered what it was doing there.”

“So you thought Woody was surprised when the gun went off?” I was finally getting something favorable to Woody, something that might mean he really was innocent.

“I didn’t say that. I said his eyes got big and he dropped the gun. That could have been due to surprise, but at the time I thought he just realized the significance of what he had done. He’d just called Jermaine a cocksucker and told him to die. I took it to mean he was suddenly feeling the enormity of his guilt.”

Damn! That wasn’t what I was hoping for. Still, the very fact he made the statement that it could have been a surprise was something useful at trial. The part about the eyes getting big as saucers was something Bert would use on cross, no doubt.

“Rod, you know Woody’s no actor. If he looked surprised, don’t you think it was because he was surprised.”

Watkins thought about it for a few seconds and responded, “Well, he would have had to have been a good actor either way.”

“How do you mean?”

“When he yelled ‘Die, cocksucker,’ he sounded like he meant it. If he didn’t, then he was doing a good job of acting.”

“Come on. You know how guys are in those things, trying to sound like a tough criminal, cussing and spitting and wrestling with the arresting agent. They’re like they’re back in junior high. Haven’t you ever heard it in those scenarios?”

“Maybe.” He paused a bit and then volunteered, “Yeah, okay, I’ve done it, too. When I broke away from Jermaine I swore at him, too.”

“What did you say?”

“You aren’t writing this down are you? Out of context it sounds bad.”

“Rod, grow up. You’re the only direct eyewitness at the instant of the shooting other than Woody. Jermaine’s dead. The prosecution is going to have to put you on the stand if this goes to trial and Woody’s lawyer is going to be asking these questions. You’ll be under oath and have to answer them, so you might as well be up front about it. Explain the context to me. I won’t write anything down if that bothers you, but you know it won’t make any difference.”

“I guess you’re right. When I broke away from Jermaine I said, ‘Fuck you, G-man.’ I was just kidding, though, you know. I was smiling and he was laughing back at me. When he caught me in the hall he whispered in my ear, ‘Fuck *you* very much,’ but he was chuckling. We both knew we were play-acting. Then, Woody yelled and the gun went off.”

“Thanks for telling me that, Rod. I know it wasn’t easy, but it gives Woody a chance.”

“You really think it could have been an accident?”

“I don’t know. I really don’t, but he deserves a decent defense. Let the jury decide. So let’s get back to the SWAT bag. Did you see anyone around Woody’s car?”

“Probably when we were all arriving. Everyone parks in the lot and is near all the other cars, but I don’t remember anything of note. No SWAT bags if that’s what you’re asking.”

“How about later, while everyone was watching the video? Did anyone get up and go outside, maybe to go to the john or something?”

“No doubt someone did. We’d all had our coffee, but I don’t remember anyone in particular.”

“Did you leave the room during the video?”

This gave him pause. “Hold on. You aren’t going to try to pin this on me, are you?”

“Of course not. I’m just trying to find out if it was possible for someone to have left the room and put the bag in the barracks and returned.”

“Of course it’s possible. Anything’s possible.”

I noticed that he hadn’t answered the question about whether he’d left the room, but I decided not to push it. The fact that he dodged the question was

enough for Bert's purposes. I didn't want to make him so leery he'd end the interview.

"You've been doing firearms a long time. Is this scenario a new one?"

"It's hard to say. We've been doing arrest scenarios for decades. I'm sure you did them here and in Hogan's Alley, too."

He was talking about the mock town at Quantico near the firing range. Every new agent or police officer in National Academy is run through a scenario there during training. When I was in training a mean-looking man popped up out of a window pointing a gun at me. I fired at him with my red handle. It turned out to be another agent, a cardboard one. He was wearing an arm band saying FBI, but I was too focused on the gun pointed at me to notice it. The exercise was designed to make you realize how difficult it is to take in all the information around you when you feel an immediate threat.

"Of course. This one was called the Two Fugitive Extraction Scenario, wasn't it?"

"Yes. Chris told us that's what we'd be doing. It's something he learned back at Quantico at his last in-service."

"Did he say anything about the SWAT bag?"

"Not to Woody and me. I don't know what he told the arresting agents."

"Did you ever see anyone in the area, maybe someone who didn't belong?"

"No. No one."

"Is there anything at all you can tell me that can help? Anything unusual, anything suspicious?"

"Nothing, Cliff. Really. It was a little unusual in that we did an arrest scenario. We only do that once every year or two, but it has been a regular thing ever since I've been an agent. We were just doing all the normal stuff and then Woody shot Jermaine. I tried to stop the bleeding. I did the best I could. If Woody hadn't meant to do it, why didn't he help Jermaine?"

I'd thought of this myself, and knew what the answer was going to be when we asked Woody. He'd say he was in shock and too stunned, but I was dismayed to hear that others had been wondering the same thing. It added to the appearance of guilt.

"I'm sure he was in shock. Let's talk about the gun. Do you know if Woody was carrying it at the beginning of the scenario?"

"I thought you said it was in the SWAT bag."

"I said it was Woody's bag. I don't know if the gun was in it. That's what I'm trying to find out. Give me a break here, Rod. I'm just asking questions. Don't draw any conclusions. Did you see that revolver, maybe in an ankle holster or anywhere else?"

"Not until he dropped it on the floor."

"What was Woody wearing during the exercise?"

"His grays. Shirt, pants."

“No jacket or vest over the shirt?”

“I don’t think so. I see where you’re going with that. You’re saying someone would have noticed if he had it in his waistband. But he could have been carrying it in an ankle holster. The pants leg would cover that. The grays have big pockets. He could have had it in his pants pocket.”

I didn’t reply directly to this. His statement seemed to confirm that it would have been noticed if it had been on Woody’s person. I knew the ankle holster and belt holster were both in the bag when he was arrested, so this was as close as I could get to proof that Woody did not bring in that gun. It was in the bag at the start of the scenario. It didn’t prove he was telling the truth. If he’d been planning to kill Jermaine, he would have realized that he couldn’t carry the gun in on him and still claim it was an accident. He could have planted the bag himself in order to provide an alternate explanation.

“Did you see any sign of animosity between Woody and Jermaine? Were they talking or arguing?”

“No. We were all standing around talking before class. The usual stuff. They were going at it about football. They both played college ball, I think. You know, making snide remarks about the other guy’s team, touting their own, but it was all good-natured. Ricardo was doing it, too, and one of the ASACs.”

“Do you know if either one was dating anyone?”

“I don’t know anything about that. I heard on the news about Woody’s girlfriend dumping him for Jermaine, but I don’t know if it’s true or who that is. They both work in R.A.’s I work here in the city. I never see those guys except at firearms training days. I don’t know anything about their personal life.”

“His girlfriend hasn’t dumped him. That was a lie the AUSA told.”

“Cliff, I don’t want to hear it. It’s none of my business. After that first night, I stopped watching the news. I keep my car radio on a music station. I’ve been trying to avoid hearing anything about the case. I just know what I saw and heard and that’s all I want to know. I want to testify without any bias.”

I realized he wasn’t being honest with himself. Maybe that’s what he wanted to believe, but the reality was that he was as curious as everyone else about what happened. He’d asked me a lot of questions. I sensed that he believed Woody murdered Jermaine, but wanted to find some reason to believe otherwise. I also noticed that he’d used the term “when” not “if” he testified. That told me he was probably scheduled to testify before the grand jury soon. Watkins kept looking at his watch and I felt I’d covered the main points I wanted with him, so I thanked him for talking to me and asked if I could give him a call if I thought of anything else. He said sure, but his lack of enthusiasm was evident. I could call, but I wasn’t so sure he’d answer.

I let him leave first so he wouldn’t be seen walking with me. I realized he’d left me with the check for our coffee, so I paid it and left, walking an extra block out my way to avoid the federal building. I took BART to my car and drove back to my office. It had been a productive trip.

When I got back, Maeva was gone. She was out doing some records checks at the county offices for one of my paying jobs. She'd texted me where she was. I got back online and checked the social media sites for all the involved parties. Connie Jefferson had posted a photo on Facebook of an elegant dinner she'd had at a restaurant I knew to be expensive. I doubted she could afford that place on her own. Who had she gone with? I hoped it was her parents treating her. Didn't she realize how that looked? I'd be willing to bet that Sheila Morrissey already had someone at that restaurant finding out if she was there with another man.

Now that I knew Bobu wasn't going to talk to me, I decided to reactivate Huntress, the fake identity I'd created. I logged onto the police instructors forum and posted that I was looking to create an arrest scenario and wanted suggestions. I'd let that sit a day or two and see if "Bubo" chimed in. If not, then I'd send a personal message to him.

I saw that Bert had emailed me some more documents that he'd received from Sheila Morrissey. There were reports from the ERT including a list of everything seized at Santa Rita. There was also a search warrant return for Woody's apartment. Apparently the FBI had gone there and seized a lot of personal records, his computer, and one other gun. Neither Bert nor I had been informed this search had taken place until now. Since Woody lived alone, no one there had become aware of it to let him or us know. Obviously, it's normal not to alert the subject of a search that he is about to be searched, in order to avoid the destruction of evidence, but usually once the search is under way or immediately thereafter, the subject becomes aware of it from some source, even if it's just when he gets home and sees everything in chaos. Here, that didn't happen. I wondered if they'd broken down the door, but I considered it more likely they'd located the landlord and gotten a key.

I'd promised Ellen I was going to be home early, so I didn't take the time to study the documents. That could wait. It was after four, so I headed home. This time she was still in a good mood and had fixed a nice dinner. Tommy had only woken her once overnight, so she'd gotten a decent night's sleep for a change. We spent the evening in front of the TV cuddling on the couch. It was the nicest evening we'd had in a long time. I didn't bother to check my email or messages all evening and we even skipped the nightly news.

I like to have guns around. I don't like to carry them.
Maya Angelou

Chapter 13

The next morning I drove in to work with the news on the radio, but Woody's case had dropped off the media's radar for now. I knew it would come back on when the bail hearing came up later in the week. I took some more time looking over the documents Bert had sent me and spotted something I hadn't noticed yesterday. It was two pages from George Mossberg's personnel file. This was unexpected. Personnel files are not normally provided on testifying agents. However, if there is something possibly relevant to the defense, such as something that casts doubt on the truthfulness of an agent, or a propensity for violence in a shooting case, for example, that's what's known as Brady material. It must be disclosed to the defense under the rule of *Brady v. Maryland*, a Supreme Court case.

Reading through it, I saw why it was disclosed, but didn't think it would help much. Mossberg had a letter of censure in his file for an incident back at Quantico several years earlier. He'd been training as a firearms instructor back then at Quantico and apparently "defaced government property." That wasn't the *Brady* infraction though. The censure had been for his "failure to be candid during the investigation of the incident." This was the equivalent to shooting a rubber band at the kid in front of you in sixth grade and then lying to the teacher and being sent to the principal. Hardly a hanging offense and not likely to cause him to be disbelieved by a jury. Maybe Bert could use it if he testified, though. Of course, he was a marginal witness anyway since he was over instructing the front office people when the incident occurred. My guess was that if Sheila Morrissey had planned to call him as a witness, she wouldn't have disclosed this. She would have interpreted it as irrelevant and not subject to *Brady*. She was probably only disclosing it now in order to look like she was bending over backward to protect the defendant's rights.

I was curious about what the defacing of government property was all about, though. I knew that the Unit Chief over firearms back then was William Clubb. His unavoidable nickname, of course, was Billy Clubb; he was a classmate of mine at Quantico during New Agent Training. He was both the oldest trainee at thirty-five, and the best shot. In fact he held several records for shooting for all FBI history. I had heard he had become Unit Chief over the Firearms Unit, his lifelong goal, but I hadn't talked to him since we both left training school. I knew he was retired now since he would have reached mandatory retirement age several years ago. I looked him up in the directory of former agents and found an address and telephone for him in Florida. I called him.

I was lucky to get him on the first try. After fifteen minutes of catching up on old times and what had become of our various classmates, I told him I was working on a case involving FBI personnel. I asked him if he remembered the incident with George Mossberg. At first he said no, but when I read him the text of the letter of censure, it came back to him.

"Oh yeah, that one," he drawled in his southern accent. "Mossberg. Piece a work, that one." He began chuckling.

"I'm all ears, Billy. You've got me curious now."

"You workin' on that shootin' in San Francisco? The one on the range?"

I knew he was referring to the San Francisco Division, not the city. "That's right."

"What's Mossberg got to do with it? I heard it was a coupla black guys."

"Probably nothing. He was there, though, and there's this letter in his file so I thought I should find out if it means anything." I could tell he was reluctant to say anything bad about another agent, particularly a fellow firearms instructor.

"Hell, Cliff, it was just a prank. It didn't mean nuthin'. He just pasted a photo of a presidential candidate on one of the targets on the range. He was there training field agents to become firearms instructors. It was all fellow instructors. Not like it was National Academy or anything. Just a joke among friends. When the instructors came out, someone without a sense of humor must have taken offense and reported it."

"Which candidate?"

"What difference does that make? It was inappropriate and in bad taste no matter who it was. I had one of the trainees remove it immediately and told them all that was no jokin' matter."

I smelled red meat. "It was Obama, wasn't it Billy? Come on, it's all in some file somewhere and it'll come out."

He sighed, knowing where this was going. "Of course it was Obama. These are a bunch of card-carryin' NRA members. If it'd been McCain they'd all have been demanding an investigation. I thought that was the end of it, but before the end of the day someone from OPR was on scene and questioned ever'body about whether they done it. Everyone denied it. But she'd already pulled the picture from the trash. She threatened to have it processed for prints and whoever it was would be fired and prosecuted for threatenin' a presidential candidate if they didn't confess. Mossberg came forward then."

"Did they look at it as a civil rights case? A racist thing?"

"I'm sure Mossberg didn't mean it that way, but maybe the OPR woman looked at it that way. He's lucky he kept his job."

"So what happened after the letter of censure?"

"He was a GS-14 at Quantico. They busted him down to a thirteen and sent him to Frisco."

I wasn't sure whether Clubb knew that most residents of the San Francisco area consider the term Frisco disrespectful, but I wouldn't have put it

past him to be yanking my chain that way. It didn't matter to me since I didn't like San Francisco any more than he did. It's a filthy, politically broken city with great scenery.

"What about you? Did you come through okay?"

"Not hardly. I got a letter, too. I 'failed to report it immediately, thereby exercisin' poor judgment.' It held up my next raise."

"Harsh, really harsh," I said sympathetically, although it was hard to feel much sympathy. I wondered whether he would have taken more aggressive action if it had been McCain's picture. In fact, I doubted that it would have happened if the Democratic candidate had been white.

"They gave me an incentive award six months later to make up for it, but they had to look like they were punishin' the manager who was there."

"Hey, while I have you, can you tell me something about the arrest scenarios they use there now? In particular something called the Two Fugitive Extraction Exercise."

"I don't know that name. We ran all kinds of different scenarios. Like you and I had to do in Hogan's Alley in New Agents Training. Every year it's a little different, but there were ones we did with two subjects in a building to be arrested."

"Do you know exactly what was taught at the scenario that Bobu and Mossberg went through a couple of months ago by any chance?"

"No idea. I've been retired for more'n five years. Talk to Clarence DeWitt. He's the Unit Chief now."

I got DeWitt's contact info from Billy and we said our goodbyes. This stuff on Mossberg was something Bert could use, although I was reluctant to let him have it. I didn't think Mossberg was a racist. I'd never heard or seen any sign of it. His immediate supervisor, the senior tech agent, was an African-American man, and they were very close friends, I knew. George Mossberg was just a prankster, but if Bert got this, he might try to make it look like racist George planted the gun in there with the intent that Jermaine or Woody got shot. This made no sense, since there would be no way he could know who might find the gun and fire it or who would be on the receiving end. But it would be an Oakland venue, meaning there would be several African-Americans on the jury. If he could make it look like a white FBI agent on the scene was a racist, he would no doubt consider using it in hopes of getting an O.J. Simpson-type acquittal or hung jury.

As I thought of this, I realized I was due to meet Bert in Oakland to look at mug shots over that dog-killing case. I ended the call and told Maeva where I was going as I headed out. I'd planned to go first to Bert's office, but I was running late, so I texted him that I'd meet him at the police station. Okay, I know it's illegal to use a cell phone when driving. So sue me. I was at a stop light and finished before the light turned green. I'll get Bluetooth in my new car.

When I walked into the station, Bert was already there in the lobby talking to an Oakland P.D. plainclothes detective. Introductions were made all around and we went in to look at mug books and talk about the incident. The interview was much different from the one with the animal control deputy. The detective mostly just listened to me tell the story my way and made notes. He mentioned that the area was a high-crime one and that there were plenty of small-time punks who more or less met the descriptions I gave. The presence of a defense attorney there always made a big difference, although it really shouldn't.

The detective pulled out the mug books and I started going through them while Bert watched. The detective left the room briefly while we flipped through the pages. He returned and told me to take my time and look over the pictures carefully. After fifteen minutes or so I spotted a photo I recognized. The skinny one, the one I had thrown over the fence, was staring me right in the face. He'd obviously been arrested before since this was a mug shot.

The detective seemed impressed and asked me to describe him further. I didn't know what he was going for, since I'd picked him out, so I described his clothing at the time. The detective asked about the guy's height and weight. I thought this was odd since he must have that information, and in any event the height was obvious from the mug shot since there were measurement lines behind his head. Still, Bert nodded for me to answer, so I told him my best guess, pointing out that since I was able to heave him over the chain link fence easily, he was probably no more than one thirty.

The detective nodded and took the mug book from me. He pulled out another one and flipped through it until he came to the page he wanted. He turned it toward me and asked if anyone on that page looked familiar. There were twelve photos on the page, all black males in their late teens or twenties. I quickly spotted the bigger mugger, the one with the knife and pointed him out. The officer made a note and thanked me without further questions. Then he left the room and said he'd be right back.

A minute later he returned and said he'd send us both copies of the police report and thanked us for coming in. He commented that these two were known to the department. He walked us out into the hall where there was another detective in a suit. He was a Caucasian with a graying goatee, a fact that didn't seem significant to me at first. Within seconds, though, I heard an accented woman's voice coming from down the hall saying, "That's the one, the big guy with the dark beard."

This was closely followed by a male voice echo the woman, adding, "The one in the blue suit. He's the one I saw kill the dog."

There at the end of the hall, where the lights had been turned off, standing with the animal control deputy, was a Chinese woman and the knife-wielding mugger. I realized I'd been set up. They were using this crime-reporting trip to stage a show-up with me as the target. They had to have several white males in suits standing together with at least one other bearded man to make it

admissible. They must have known I would never agree to stand in a line-up, nor would Bert have allowed it, so this was the next best thing. It all became crystal clear. The black guy and the Chinese woman were in cahoots. Maybe the mugger had come up with the idea and knocked on her door and told her he'd seen a big, bearded, white guy in a suit kill her dog. Maybe she believed him. Maybe she knew he was the real dog killer, but saw a chance to make a buck. I didn't know, but I could smell a civil suit coming.

Bert was livid. He started screaming obscenities at the detective, who was taking it stoically. I was seething, furious at Bert for putting me in this position. The people at the end of the hall disappeared. I started to say something but Bert told me to shut up. I took his advice. He took my elbow and led me toward the exit door still screaming at the officer. Once Bert gave him a chance to get a word in edgewise, the detective told us the D.A. had insisted on it. He pointed out that at least now they knew we had all been there at Leung's house. He said it was my word against theirs, and that he would emphasize to the D.A. that the two punks weren't credible. The fact that I had correctly identified the smaller guy and my ability to correctly estimate his weight gave credibility to my story about throwing him over the fence. He said he didn't think I had anything to worry about. I noted that he hadn't said the Chinese woman wasn't credible. I knew she was lying, too. I distinctly heard her say I was the man she'd seen. She no doubt recognized me from the photo on my website, not from the few seconds I'd been in her yard. I *was* worried.

Once we were outside, Bert apologized to me and said the A.D.A. he'd been dealing with was going to get his ass reamed for this trick. He said some of the same things the detective had said about it being my word against theirs. An FBI agent versus a punk and a woman who stood to make money from a civil suit. I had no motive for randomly going into some stranger's yard to kill their dog, and so on. Don't worry, he said. He promised not to charge me for this morning, like that's going to make it okay. I'd never even signed a representation agreement with him. He sets me up to be prosecuted and sued and he's gracious enough not to charge me for that. Hey, thanks.

We still had to go out to the prison to interview Woody again. Originally I was going to ride with Bert to the prison and discuss the case with him as we went, but I was too mad at him and told him I'd meet him out there. I walked off as he called his repeated apologies to my back.

At the prison, things went a lot faster this time. We started off asking him about his relationship with Connie Jefferson. He repeated that they were "solid," but Bert pressed him on specific statements. Had she ever said she was breaking up with him or might break up with him? Had she ever mentioned that she thought Jermaine was "cute" or good-looking? He said no to everything. I then confronted him with the statements Connie had made to me about the time he bailed on the concert. He waved that off dismissively.

"Look, that was nothing. I knew she was just joking around, just trying to make me jealous. I didn't take it seriously."

"So you lied about it?" I asked pointedly.

"Lied about it? No way, man. I mean, I didn't count that. I thought you meant did she break up with me for real."

Bert pinned him down this time. "That's bullshit, Woody. I asked you specifically if she had made that statement and you said no. Now you admit she did. That's a lie."

The double-teaming seemed to have its effect on Woody. "Okay, I should have told you about that one. I knew it didn't mean anything, and I was afraid you'd think I was guilty, that I was jealous of Jermaine."

"Were you?" I asked.

"Jermaine? You gotta be kidding. The answer is no. Look, Connie is high-maintenance, a diva, you know? She wants to be treated first-class and she says things like that to get her way. I know she's just playing with my head. I ignore it."

"Then how do you explain her statement that if a girl makes her boyfriend jealous he'd kill for her? She knows this for a fact." I asked.

"She said that?" he replied, shocked.

"She did."

Woody sat silent for a few moments, obviously upset. Bert then pulled out photos of the gun, showing the serial number, and the SWAT bag showing Woody's vest.

"Explain these, then," he said.

Woody stared at the photos. I could see him silently mouthing the serial number on the gun. He shook his head as though in disbelief. Most agents don't know the serial numbers of their guns, just as most drivers don't know the VIN of their car, but firearms instructors are frequently cleaning their guns, inspecting others' guns, and recording such data; I could see he recognized the number as his gun.

"Somebody set me up," he finally declared.

"Set you up? Who would do that?" Bert asked.

"I don't know. They must have gotten these out of my car after the shooting and replaced the ones at the scene with mine."

Bert continued to press. "Woody, that makes no sense. You told us you had the keys all the way until you got to Oakland. Why would anyone do that? And how?"

"I'm telling you, I don't know. I swear I didn't know it was mine. Those SWAT bags all look alike. I just reached in and grabbed."

"So now you're saying they were yours at the time of the shooting?"

"I don't know. I guess they must have been, but I swear I didn't know. It has to be a set-up. That's all I know."

“Who would do that? Who?!” Bert was relentless in his cross-examination.

“I keep telling you I don’t know.”

I jumped in at this point. “Woody, first you said you didn’t call Jermaine a cocksucker, then I find out from two witnesses that you did. Then you tell us Connie never said anything to you about going out with Jermaine and we find out she did. You tell us the gun and bag weren’t yours, then we find out they were. You tell us someone staged them there afterward for the photos, then you admit they were yours and say you’re being set up. How are we supposed to believe anything you say?”

Woody put his face in his hands and started weeping. His whole body shook. After an interminable two minutes he looked up, first at Bert, then at me.

“Okay, I wasn’t up front with you. I knew what I said to Jermaine at the range. And I was sort of jealous. Just a little bit. But not enough to kill him. More irritated than mad. Maybe that’s why I called him what I did. Connie kept bringing up his name whenever I didn’t take her where she wanted to go, or she wanted me to buy her something nice. I didn’t tell you because I thought you’d think I was guilty and wouldn’t help me. But that’s it. I didn’t know about the gun or the bag. I didn’t. I can’t explain how they got into the barracks. There must be another set of keys somewhere. Somebody else moved the bag in there.”

Bert was the one to reply. “Woody, you’re an FBI agent, for god’s sake. You should know that getting caught lying is what makes people look guilty. You need to tell us the whole story one hundred percent truthfully. That’s the only way we can help you.”

“I am. This is what I’m telling you now.” He turned to me. “Cliff, you believe me, don’t you?”

“Woody, I’ve learned to withhold judgment until all the facts are in. That’s what makes me a good investigator, which is why you wanted me on your team. What I know is that other people don’t believe you and it’s my job to find evidence that will make them believe you. If you continue to lie – about anything – then I can’t make that happen.”

“But you’re going to stay on and help me, right? After this week? Bert said you ...”

“No promises, Woody.”

“I’ll pay you. It may take a while but they started a fund.” He turned to Bert.

“It’s not growing very fast, Woody,” Bert said. “Twelve thousand so far, according to Porillo. Do you have any other assets you can liquidate? A car, maybe?”

“So it’s all about money with you guys? You don’t care that I’m innocent? You don’t *believe* that I’m innocent?”

“Of course we care, but everything costs money. Investigators cost money. I have to pay my staff, my overhead. Cliff has to pay his. I’ll be hiring

experts. They don't work for free and they need the money up front on criminal cases. We need you to take a realistic view of this case and figure out a way to pay for a decent defense."

Woody's shoulders drooped, and he dropped his gaze, too. When he looked up again, his cheeks were streaked with tears. "My car's not paid off. If I sold it now the bank would get all the money. I'll withdraw my retirement. They'll hit me with a big penalty for early withdrawal, but I think that's maybe twenty grand."

I hated this kind of money talk, but Bert was right. A proper murder defense was going to cost close to a million dollars if it went to trial.

"Woody, give me something to work with here. Tell me who could have a reason to set you up? Who else could have had a key to your car? Anybody?"

"The only other keys are the ones the garage has and the spare in San Jose R.A."

"The only person from San Jose there besides you was the ASAC. Did Dawson have something against you?"

"Dawson? No. Not that I know of. I mean, he got mad when my CI turned in an I.O. fugitive to the PD instead of to us. He chewed me out a couple of weeks ago, but it wasn't my fault. The CI was probably getting bigger bucks from the police. But Dawson was normal after that. He was talking sports with me the next day."

I knew that an I.O. fugitive was one for which a wanted poster had been printed and distributed nationwide. The term I.O. stood for identification order, that is, a wanted poster, in the criminal context. I.O. fugitives were bigger fish than ordinary fugitives, if there is such a thing, but even if it had been Woody's fault, it wouldn't be reason to set him up for murder. Still, it got me thinking. Dawson had been reticent about talking to me and was the only other person with access to a key to his car so far as we knew. I decided to look into his background some more.

I asked Woody for the passwords to all his accounts – email, social media, bank, phone, computer, and anything else he could think of. I was expecting a long list, but it turned out he used the same one on everything: mypassword123. Had he never heard of identity theft? This wasn't quite as bad as 123456, but not by much.

I walked him through the entire day, his arrival, where he parked, who else was there at the time, who was talking to whom, was anybody being secretive, were there any arguments, did he stay through the whole safety video, did he notice others around his car or going out during the video. The answers didn't help. Everything seemed normal. He'd noticed no one at the car. He was sure he hadn't left during the video, which was at least something. He remembered because he needed to use the bathroom the whole time and was relieved, literally, when the video was over.

Bert and I questioned him more closely about the shooting itself.

“Why didn’t you know the gun was loaded when you picked it up?” Bert asked pointedly. “Doesn’t a loaded gun weigh more than an unloaded one?”

“Of course, but a little five shot like that loaded weighs a lot less than a Sig pistol loaded with sixteen rounds. It still feels very light. In fact, it probably weighs less than an unloaded service pistol. Unless you’ve just been handling an unloaded five shot, it’s going to feel unloaded.”

Bert was obviously having trouble buying this, but I understood what Woody was saying. I’d handled different handguns during the same shooting session, and the feel is quite different for each one.

“What load did you use in the revolver?” I asked.

“Regular .38 service ammo,” he replied, puzzled.

“Hollow point?”

“Yeah. Why?”

“Why did you have that SWAT bag and revolver there that day?”

“I was going to qualify with it after the suits finished their qualifying. You know I have to qualify with it to carry it.”

“Then why didn’t you have it loaded with wadcutter?”

“I hadn’t been shooting yet. I don’t keep wadcutter at home. I’d have loaded up when it was our time to shoot.”

Wadcutter is the ammunition usually used on the range when shooting paper targets with a revolver. It’s not used with semi-automatic pistols because it doesn’t feed in correctly. It’s cheaper ammunition because it contains less powder and a lighter slug than hollow-point service ammo. The slug is flat-nosed rather than the usually round-nosed bullet most people are familiar with. It makes a nice neat circular hole in the target, unlike a blunt-nosed bullet, which tears a jagged hole. That makes it easier to score and also a bit safer since it is less likely to penetrate multiple layers or to ricochet. I was hoping he’d say he had it loaded with wadcutter. The lighter bullets might have been an additional explanation for why the revolver felt unloaded, although the difference in weight would have been slight. The main reason I was hoping for wadcutter was that if he’d wanted to kill someone, he wouldn’t have used wadcutter. A contact gut shot using wadcutter still might have killed Jermaine, but it probably wouldn’t have. It’s designed to have only enough power to penetrate a paper target.

Woody’s explanation made sense, but I could see how the prosecution could use that ammunition against him. I explained this to Bert while Woody shook his head in disbelief that this could be used as a sign of guilt. I could tell from Bert’s expression, though, that he was still skeptical of Woody’s explanation. If he was skeptical, I knew a lay jury would be, too. In fact, I was, too.

“Don’t you normally keep your revolver in a holster?” I continued.

“Yeah, an ankle holster.”

“So why was it in the end pocket of the SWAT bag while the holster was in the main compartment?”

"I can't qualify with it drawing it from my ankle. You know the course has some quick draw stations. I threw my belt holster in the bag, too, so I could use it for the course."

"Then you removed the gun from the ankle holster that morning?"

"Yeah. What're you getting at?"

"Just answer the questions. So why didn't you put the gun in the belt holster? Why put it all by itself in the end pocket?"

"Uh, I don't know. I didn't think it was important. I was just throwin' stuff in the bag."

Bert saw where I was going with this. He jumped in with the next question. "If you were preparing to qualify with it and needed different ammunition, why didn't you unload what was in the gun?"

"C'mon you guys, this is ridiculous. Why're you jumpin' all over me?"

Bert continued, "These are exactly the kind of questions the prosecution will ask you if you testify. And if you don't have good answers, you aren't going to testify. So why leave it loaded in the bag?"

"I guess it's just habit. I don't want loose ammo floating around my bag. You don't carry around an unloaded gun. It's not useful unloaded."

"And it's useful in the end pocket of your SWAT bag locked in the trunk of your car? How do you quick draw from that?"

"Screw you! You're supposed to be on my side. I'd be better off with a public defender."

"No, you wouldn't. Do you have an answer or don't you?"

I decided Woody had had enough. "Calm down Woody," I said. "You need to think these questions through and answer calmly and truthfully. You didn't unload the gun because when you get to the range and prepare to shoot, you're supposed to shoot the first five shots of a practice round with your old service ammo, reload with wadcutter, and then at the end reload with fresh ammunition. It's FBI policy to use up the old ammunition so that no agent is out there in the field with ammunition that's been sitting in his gun for twenty years and won't fire. That's right, isn't it?"

"Of course that's right. Everyone knows that."

"No, they don't. Bert didn't know it and neither will anyone on the jury. Whether you testify or not, Bert needs to know the answer to these questions so he can cross examine the prosecution witnesses, and so he can explain your behavior to the jury. You need to give him answers."

Bert took on a conciliatory tone. "I'm sorry if I pissed you off, Woody, but I'm trying to make you see what you're facing here. I guarantee you that if you're put on the stand Sheila Morrissey will give you a lot harder grilling than what I just did."

"Yeah, yeah. Okay, I get it. I'm sorry. Ask me whatever you have to."

Bert went back to gentle questioning. "How about the car. Did you put the bag in the car that morning or the previous day or when?"

"That same morning. The bag was in the trunk when I left for the range."

"Did you open up the trunk to take it out at the range? Maybe you left the car unlocked accidentally."

"No. I just got out, locking the car with the button on the door, and walked over to sign in. Then I started talking to the guys. Sports and stuff. Then we got called into the classroom."

"Did you stop en route? For coffee, maybe?"

"Yeah, now that you mention it. There's Starbucks right where you turn off 580 for Santa Rita."

"Is that a spot other agents use?" Bert thought he was onto something.

"Yeah, it is. It is. I saw Dawson there while I was in line. He was just getting his coffee. He said hi to me and left."

"And he's the ASAC from San Jose, right? He could have taken your bag out of your trunk while you were inside, isn't that right?"

"If he'd brought the keys with him. But why would he do that? How would he even know I'd be there? And you can see the parking lot from inside. I probably wouldn't have seen him since I was looking at the barista, but he couldn't know that."

"Do you have a better explanation for how the bag got into the barracks?"

"No."

"At the range, did you open the car for any reason? To get sunglasses, shed your jacket, put your phone away? Anything."

Woody thought about it a long time. "No. I was wearing my grays the whole time; no jacket. I use the Bureau eye protection when I shoot. I wasn't wearing any sunglasses. I left my phone in the car when I got out. I didn't go back."

I tapped Bert on the shoulder to stop this line of questioning. "Hold on a sec. You left your phone there? So the FBI has your phone now?" I didn't remember seeing that on the property list, but that list had been the property taken from his person in Oakland. "Are they going to find anything embarrassing on it?"

I saw his face fall. "Oh, that. Connie sent me a couple of selfies."

"Let me guess. Nude?"

"Yeah. Nude."

"Did you send them to anyone else?"

"No way. I wouldn't do that."

"Did you send her any of you?"

"Well, yeah. It's only fair, like. Only after she sent me hers, though. I mean ..."

"Okay, okay. No explanation needed. Are these photos on your computer, too?"

"No, just the phone."

“Okay, anything else? Texts? Links to some site that make you look bad?”

“We texted all the time. It gets pretty, mm, romantic sometimes. But I deleted all that stuff.”

Bert wanted the lead again so he commented, “They’ll get everything from the providers, anyway. You know that. Are we going to see some horrible email or message? You threatening Jermaine? Connie telling you she’s breaking up? Anything?”

“No, nothing like that.”

“What about medicines? Are you taking any medications?”

“High cholesterol pills. Sometimes a sleeping pill when I have trouble sleeping.”

“Statins?”

“Lipitor. That’s a statin, isn’t it.”

“They can make you irritable, angry. Have you felt a sense of rage since you started taking them?”

“No, man. I had no problem with that.”

“What kind of sleeping pills?”

“Ambien. I have a prescription.”

“And those can make you hallucinate. Did you take an Ambien the night before firearms?”

“I don’t remember.”

The guard knocked on our door. Our time was up. We’d gotten a lot more information to work with this time. We thanked Woody and left the prison. Outside Bert apologized to me once again about the police station.

“I’ll fix this, Cliff,” he assured me. “I don’t want you worrying about it. You identified those two mopes and the OPD detective knew they were bad news. You had just come from a court hearing. Where’d you get the knife? You didn’t have a car. See what I mean? You were searched through a metal detector.”

“I stopped at your office. In theory I could have stashed a knife at your office and gone back to get it.”

Bert scoffed. “Right. You stashed a knife at my office and then retrieved it and walked straight to the edge of Chinatown to torture and kill some stranger’s dog, sacrificing a nine-hundred-dollar suit. And you did this why?”

“Alright, so take care of it already. But dollars to doughnuts I’m facing a civil suit from those two.”

“You have insurance. They’ll take care of you if it happens.”

“So what now? You want me to investigate, but I’m running out of good leads. So far everything’s pointing to Woody.”

“You gotta find me an alternative theory. Someone who entered Woody’s car and took his bag into the barracks. And I need means, motive, and opportunity. It sounds like anyone there had the opportunity during the video. No

one was paying any attention to who went to use the crapper while it was playing. But I'm having a hard time coming up with means and motive. A confession from someone else would be nice."

"Did you request the fingerprint exam on Woody's car and the bag like you said?"

"Not yet. That'll tip our hand as to our defense theory, but it looks like I'm going to have to. I'll request that at the bail hearing tomorrow."

"He's not going to get bail, is he?"

"No chance. Cliff, tell me straight out. Does his story about the gun in the end pocket, loaded but without the holster, make sense to you? Do you think he's telling the truth?"

"We know he lied. He lied about being jealous of Jermaine, for one. He told us he didn't realize the bag and gun were his. That's hard to believe, although it's conceivable. Those bags all look alike. Different gun models feel different in the hand. I think I'd recognize the feel of my own five-shot, if I had one, but for a common model like that, of course any other revolver of the same model is going to feel and look the same. The gun in the pocket ... well, it's not the way I'd do it. The gun would normally be sitting somewhere at home or the office, on a dresser or in a drawer, in its regular holster, which in his case is an ankle holster. When he left for firearms the logical thing to do would be either to toss the gun still in the ankle holster together with the belt holster into the bag's main compartment, since the end compartment is not big enough for both holsters, or else switch the gun into the other holster you know you're going to use before you leave. The gun in the belt holster would then be in the end compartment, but that didn't happen. It was the gun with no holster, almost as though he wanted the loaded gun quickly accessible without having to pull it out of a holster. The part about the ammo makes sense, though. You always load with fresh ammo when you leave, so there's no reason to have loose ammunition in the bottom of your bag. If you want more for some reason, you can just take a box of new stuff when you leave."

"So you think he's guilty of premeditated murder?"

"Do you?"

"I have to unless you or he can come up with another explanation. I'm going to talk to Sheila about a disposition after the hearing. Maybe second degree, minimum security, eight years."

"You really think Woody would consider that? Or Sheila? I can't see it."

"Maybe not, but I have to do something to keep him from a life sentence, even the death penalty."

We'd come in separate cars. Bert told me he had to get back to his office to draft two motions for the hearing tomorrow, so I took off to grab a late lunch at one of the nearby spots.

Back at the office Maeva was still reviewing photos and video, but hadn't found anything useful. I briefed her on what we learned from the

interview, which made her happy. She appreciated being made a full part of the investigation. I knew she was bright and was hoping she would come up with some ideas. I was fresh out.

I placed a call to Clarence DeWitt, the firearms unit chief that Billy Clubb had told me about, the one who would have run the in-service training for Bobu and Mossberg. It went to voicemail. I left a vague message, identifying myself only as a retired agent who needed some firearms advice. I checked the website forum again to see if Huntress's identity had elicited any responses from "Bubo." It hadn't although there were two responses from other police instructors. That gave me an idea. I used one of my other fake identities to join that forum and respond. This second sock puppet replied that he had heard a good exercise to use was the FBI's Two Fugitive Extraction Scenario. I then logged on again as Huntress and asked if anyone knew where I could get a description of that exercise, or preferably a written FBI protocol.

I called Ellen to see how she was doing. She was in tears again. Tommy had been crying all day. She'd run out of milk and couldn't keep him happy no matter what she tried. I told her I was coming home and could take him for a while. I told Maeva where I was going and got home as fast as I could.

As Ellen had said, Tommy was crying his little head off. He was almost screaming. I wondered whether he was in pain. I took him from a grateful wife and tried burping him. I managed to get a single burp from him, which quieted him for a few seconds, but then he started right up again. Ellen told me she was going to take a nap.

I threw the Snugli into the car and loaded Tommy into the car seat. I planned to drive to the park and walk around with him in the Snugli, but as I was waiting at a stoplight, I realized I had not seen any sign of dinner preparations at home. I knew Ellen needed a break, but going out to a restaurant was out of the questions with a screaming baby. I decided to drop into the grocery store and pick up something ready-made. They had some good hearty soups in plastic cartons. I parked in the lot and loaded Tommy, still crying, into the Snugli. Almost as soon as I walked into the store I started to get admiring glances from some of the women there. A man who takes the baby and does the shopping! Will wonders never cease!

As I was looking over the soup collection, a young Indian mother pushing a baby in the cart came over to me. A girl about three walked beside her.

"A boy or a girl?" she asked.

"A boy, Tommy."

"Your grandson?"

Ooh, that hurt. "My son," I replied, trying not to sound offended. "He's my first," I added. I suppose my vanity made me imply that I had a great future ahead as a prolific stud, the progenitor of many more to come.

"I'm sorry. Can I get a better look?"

I nodded. She reached tentatively for the flap on the Snugli so she could see his face. Tommy was still crying, but it was more of a constant fussing than the screaming he'd been doing earlier. When she pulled the flap back she proclaimed him to be "the cutest thing."

"I'm sorry about all the crying," I replied, not sure how to continue the conversation.

"How old is he?"

"He'll be three months next week."

"May I touch him?"

She seemed kindly enough so I gave her the okay. She put her fingers on his chin and gently opened his mouth. After peeking inside and touching his gums she remarked, "It's awfully early but I think he's starting to teethe."

"Already?" This hadn't occurred to me.

"Your pediatrician can give you stuff to put on the gums to reduce the pain. Wrap a clean cloth around your finger and let him chew on that. That may stop the crying. Is your wife breast-feeding?"

"Yes."

"She'll have some painful moments soon. Just be patient. You'll get through this stage. Just enjoy it while you can. It's all part of the experience."

"Yeah, okay. That's good advice."

The woman went on her way. I bought a couple of the soups and picked up a boneless chicken breast. Sometimes Ellen would microwave one and chop it up to beef up the soup, as it were.

We went on to the park, but I didn't get out to walk him because he fell asleep in the car. I picked a route with minimal stops so I could keep the rhythm of the road going for him as long as possible. I didn't want to keep the unrefrigerated groceries in the car any longer than necessary, so after twenty minutes or so I pulled into our garage. Tommy started crying again almost immediately. After I put away the food I tried the trick of letting him chew on my finger. I learned quickly that one layer of cloth isn't enough. These little suckers can really bite, even without teeth. I understood fully what the woman meant by her comment about Ellen's future.

I babysat the rest of the afternoon. When it was time for the early news, Ellen was still asleep. I turned on the television. The lead story turned out to be Woody again. The same woman reporter as before was in front of the Oakland federal courthouse. The United States Attorney's Office had filed an indictment against Woody for the murder of a federal officer. This was unsurprising by itself, but I had not expected it to be this soon. Sheila Morrissey herself had said at the last hearing that she would not have an indictment by the time of the bail hearing. Now it seemed, she did. A legal analyst came on speculating that the government would be seeking the death penalty.

I knew from experience that Morrissey must have worked fast. Usually on complex cases, like the white collar ones I used to do, it took weeks of

presentations to a grand jury before an indictment was handed down. The short time frame here meant she must have brought all her witnesses in one session and spent very little time with each, presenting just the bare bones of the case. Considering the nature of the evidence and the presence of eyewitnesses, this wasn't so surprising. I guessed that she had Watkins and Garcia testify, had some medical or autopsy reports introduced, and maybe one of the ERT people to testify that the gun and bag were identified as Woody's. I hoped she had put Bobu on the stand since he was dodging me. I knew Bert would get the transcripts of the grand jury testimony and maybe there would be something more in it than what was in his 302.

So that meant the bail hearing tomorrow would also be an arraignment on the indictment. I needed to be there. That meant getting up early and driving through rush hour traffic.

Ellen had come out of the bedroom during the news story. She could see I was engrossed so she had waited for it to be over before saying anything. She was in a better mood after her nap, and once the news story was over she gave me a kiss on the cheek and thanked me for taking Tommy. When she realized I'd taken care of dinner, too, she returned for a bigger kiss, on the lips this time, and a fierce hug.

I mentioned to her what the Indian woman had said. Ellen told me it was way too early for teething, but she said she'd try anything at this point.

After dinner I cleaned up the dishes, earning a few more brownie points, but really, it wasn't much work and was easier than trying to keep Tommy happy. When she quieted him down with another feeding, I finally had a chance to log on and check email again.

There was one from Bert with the names and DOBs of the two men I had identified from the mug books. He'd gotten that information from the Oakland P.D. detective. Mug books don't contain the names, so I hadn't been able to get that when I identified them. Now I had something to go on. I forwarded that one to Maeva and asked her to do criminal checks and anything else she could think of on them.

I checked Huntress's forum post, but there was no activity there. I checked the Facebook pages and Twitter accounts of Watkins and Garcia, too, but there was nothing recent. Watkins had never posted much of anything, but Garcia had been a frequent user of both until the date of the shooting. He'd probably been advised to stop using social media. I had previously found and downloaded a few pictures of him at tailgate parties or similar events, usually with a beer in his hand. Bert might be able to embarrass him a bit with those if he testified, implying that he might be called out on duty drunk, but I didn't think that would amount to much. I checked all my other trap lines but nothing good came up. I told Ellen I had to get to Oakland early and wanted to get up in time to beat the morning rush, so we hit the sack early. For the first time, Ellen took my

advice and just let Tommy cry. I assured her that he would survive until the 3:00 AM feeding. And he did.

You don't have to be naked to be sexy.
Nicole Kidman

Chapter 14

The courtroom was filling quickly for the hearing. I recognized two or three of the television reporters in the gallery. I managed to find one of the last empty seats and settled in. The man next to me took a quick look my way and greeted me by name. I was nonplussed for a few seconds, but he introduced himself quickly. It was Bob Battiato, the crime reporter for the *San Jose Mercury News*, the same reporter who had made my life miserable three years earlier when I was a suspect in a string of homicide cases. I'd spoken to him on the phone, but I'd never met him in person. He knew me from the pictures that had appeared in the paper and television at the time, some of them above his own articles.

He asked me why I was there. I told him I knew the defendant and was interested in the case. He asked if I was investigating the case. I laughed that off as a ridiculous idea but I could tell he wasn't buying it. He didn't press me, though, and soon he had no chance since the magistrate came out on the bench. We all stood and were told to sit again, then admonished to remain quiet and orderly. The magistrate knew there was likely to be a hubbub if Morrissey announced that the government was going to seek the death penalty.

The magistrate took several other cases first. I'm never sure what criteria judges use for deciding the order, but then I've never been a judge. When he finally came to Woody's case, he would normally have let Bert go first on the issue of bail, but since he was well aware now that there was a new indictment, which would affect the bail question, he asked Sheila Morrissey to proceed. She announced the filing of the indictment for murder of a federal officer in the first degree. There was no lesser charge. The courtroom hushed collectively waiting for the other shoe to drop – would it be a death penalty case? She didn't say and the judge didn't ask. Instead he turned to Bert and asked if the defendant waived a reading of the indictment. As always, the defense counsel said yes. He didn't want the details of the crime recited in all their gory details for the benefit of the media. He'd read the indictment and knew what it said. Of course, so had the reporters.

The judge then went through the litany of questions to the defendant. Had he been advised by his counsel of the substance of the indictment? Did he understand that he was being charged with murder? Did he understand his right to a jury trial, the right to call witnesses on his behalf, and on and on. Woody dutifully nodded and mumbled yes to all the questions. I could tell from his demeanor and answers he was intimidated and confused. He turned to Bert more than once for a whispered explanation of some term.

It would seem surprising to members of the public fed on TV crime show fare to learn that Woody, or any other experienced FBI agent, was totally unfamiliar with what goes on in federal criminal court. Most AUSAs didn't like agents to attend. They saw that as unnecessary looking over their shoulder, much as the agents wouldn't like the attorney riding around with them while they did their interviews and other investigation. The streets belong to the agents; the courts to the prosecutors.

I knew Woody's FBI history well enough to know that his primary assignments were, in approximate chronological order, applicant backgrounds, white collar cases (a SWAT team on the side), a surveillance squad, and now fugitives and bank robberies. Applicants, of course, do not appear in court. White collar cases rarely result in arrests; defendants there self-surrender to the U.S. Marshals at a time agreed upon by counsel. Investigating agents in those case may testify in grand jury, but seldom have any reason to go to court hearings. None of Woody's white collar cases went to trial and only one that I remember even was prosecuted, resulting in a plea bargain. Surveillance agents do not make arrests or investigate cases other than writing up reports. Fugitive work doesn't result in going to court. You just catch 'em and take 'em to jail. Even bank robbers rarely get prosecuted in federal court in this area. In Bismarck or Peoria, sure, but around here a bank robbery ranks up there with littering and graffiti. It's handled by local agencies except in the most egregious cases, such as a shooting or pistol-whipping. So I wouldn't have been surprised if this was the first arraignment Woody had ever attended.

When the arraignment was done the magistrate said he would entertain argument on the issue of bail. Sheila again requested that no bail be granted. Bert responded by requesting reasonable bail, pointing out his long FBI tenure and lack of criminal history, the fact that the FBI now had his passport, and promising that Woody's FBI supervisor had agreed that he could live in her house until the trial and would take responsibility for him. He repeated several times that the shooting was an accident and that Woody had no motive to commit murder.

This was the first I'd learned that Gina and Matt Nguyen had agreed to take Woody in. It must have happened late last night. That was a good development and one that I thought might just win the day. My optimism didn't last long. Sheila Morrissey held up a large manila envelope and replied that she had evidence that proved opposing counsel wrong. She offered to hand it up to the magistrate. At the same time she handed a similar envelope to Bert. The judge told her to step back and describe the document before he would consider looking at it.

"Very well, your honor," she replied coolly, and I realized that the judge's reaction was the response she had been hoping for. "In this envelope is a color print of a photo the defendant's girlfriend sent to the victim only three days before the murder. Because of the ... very personal ... nature of the photo," and

here she looked back at the reporters in the gallery before turning her gaze back to the bench, "I have kept it in the envelope out of respect for the young lady's privacy. I'm sure it's not a photo she would wish to be public. It was found on the victim's phone along with a text message asking the victim to send her a similar photograph. I think the court would find it abundantly clear what the defendant's motive was. This was no accident. The defendant sneaked his gun into the firearms. He called the victim obscene names and then shot him at point blank range. Defendant has every reason to flee. The evidence against him is overwhelming."

I cursed Connie Jefferson silently. She'd sent Jermaine her nude photo and didn't tell me. How could she not realize it was going to come out? Didn't she care what it would look like to Woody? I began to wonder if Woody knew about it, but my gut instinct told me he did, and he had concealed it from Bert and me.

The magistrate told Morrissey that he didn't need to see the photograph. He turned to Bert for a response, but all Bert could do was sputter that this was something that had been dropped on him without warning and was a cynical, sensationalistic attempt to prejudice the jury pool. I noticed that Woody had the envelope in his hand and was pulling the photo out far enough to get a peek. The magistrate then turned back to Morrissey and asked the big question: would the government be seeking the death penalty? This was certainly relevant to the question of bail. She took her time to build up suspense in the gallery then finally answered no. There was a small rush of bodies towards the door, but most of the reporters stayed put. Apparently some seemed interested only in being first to report that the death penalty would not be sought, or maybe they wanted to start the quest for that nude photo. The rest wanted to hear whether bail would be granted.

The magistrate announced that bail would be denied and called the next case. It was over like that. A larger stampede then took place. I waited for the rush to die down before standing. The *Mercury* reporter was still sitting next to me, and I sensed that he was waiting to see what I did. He was a newspaper reporter, not TV or radio, and his deadline would not come up for several hours, so a few minutes wouldn't matter to him. I waited for Bert to gather up his things and followed him out of the courtroom.

I caught up to Bert and followed him to the elevator. When we got there, Sheila was waiting. She spotted me and gave me a glare. She must have remembered me from that case in San Jose and considered me a traitor to be working for the dark side. I was conflicted enough to sympathize with her. We said nothing to each other. Bert took me by the arm and led me aside, waiting for the next elevator. Once Sheila was gone, he told me he wanted to stop by the marshal's office to see if we could get a word with Woody before he got carted back to prison.

We got there and it soon became clear that this case was being treated as special. This was more in deference to Woody's position as an FBI agent, and, presumably, the magistrate's favorable view towards the agency, than it was to Bert's persuasion. The chief marshal agreed to the request and told us to wait. After a few minutes, we were led back to some holding cells. Woody was the only prisoner there. The others were either still in court or stuck elsewhere. We were let in.

Bert waved the envelope in Woody's face and asked if he'd known that Connie had sent the photo to Jermaine. Woody hotly denied it. Bert didn't buy it. He asked why Woody hadn't shown more reaction when he saw it and Woody claimed it was because Bert had told him to stay calm and not react in court.

Woody's demeanor was too stiff, too practiced. I could tell he'd anticipated the question and rehearsed the answer. I interrupted.

"Woody, look me in the eye and repeat what you just said. First, though, let me warn you that the phone and social media files for both you and Woody have been subpoenaed by the prosecution. They will find and review every text, every email, every Instagram or Facebook posting for you, Jermaine, Connie and everyone else with a connection to this case. We will see those in discovery, including everything you've deleted. If you lie to me about this, I'm outta here. I've got to know once and for all whether I can trust you."

I saw doubt creep into Woody's eyes. "They can do that? Get deleted emails?"

"They can."

He shook his head and defeat suffused his face. He looked like a bronco that has finally been broken by a cowpuncher.

"It's not what it looks like," he began, and I knew it was exactly what it looked like. "Connie sent him that photo, but he forwarded it to me with his own message saying my girl was playing games with me. He respected me as a brother, you know, and knew that wasn't right, what she did. He told me he wasn't going to cut in on my relationship, you know? I asked him to delete the picture and our emails and he promised me he would. I deleted them all and I thought he had, too. He even told me he had at firearms that day, before class. That's why I didn't tell you about it before. I knew how it would look. But Jermaine was a good guy. I wasn't angry. We were laughing about how she was tryin' to manipulate me and how it wasn't working."

I was disgusted with the answer. "Woody, we went over this already. Lying to me doesn't make me believe you more. It has the exact opposite effect. Now I need it straight up. Your answer is attorney-client privileged so it can't hurt you, but I need to know: did you intentionally shoot Jermaine?"

"How could you ask me that? You still think I did it?"

"Cut the crap! Yes or no. Did you murder Jermaine?"

"No. Cliff, absolutely not. It was an accident just like I told you."

Bert had listened to the exchange with intensity, but had not interrupted. I knew he wanted to know the truth just as I did. I also knew he didn't trust Woody's answer any more than I did.

"I have to ask you something," he said to Woody. "I want to talk to the AUSA about a disposition. I need to know whether I can offer to plead you nolo to second degree. I think I can get you minimum security, eight years. I know it sounds like a long time, but ..."

"A plea deal?! No way. You still think I'm guilty? How many times do I have to say it. I'm innocent. 100% innocent. Someone set me up. You hear? No deal."

"I have to look at all the options, Woody. Just because we believe you're innocent doesn't mean a jury will. I've managed to get the death penalty off the table. Now let's get a life sentence knocked down. If you get convicted at trial, you could end up in a maximum security prison for life. Ex-law enforcement convicts don't do well in those places."

"I don't believe this. What part of 'no deal' do you not understand?"

"The part where every few days we get a new surprise you didn't tell us about, a surprise that makes you look guiltier and guiltier, a surprise that you lied about. Just think about it."

The marshal came in and told us he had to move the prisoners now, so we left. Woody was calling "No deal" to us as we left the area. We went outside before talking any more. There were too many ears inside.

"Bert, I'm giving you notice now," I declared. "As soon as I've done the week I promised, I'm off this case. I can't work with someone who lies to me."

"Cliff, be reasonable, or at least be compassionate. You're the only one he trusts. You're the only one I trust on this case."

"It doesn't sound like he trusts either one of us. Innocent people don't hide the truth."

"Of course they do. Every day. We all have secrets. Look, I need you. You're the best investigator I know. Woody and the other agents you worked with know it, too. Remember when we worked that major case on the chip theft hijackings? It was going south until they brought you in as case agent to anchor it."

"Calling me an anchor isn't going to help. I hope you meant that as a track metaphor and not a sailing metaphor."

"Quite the quipster, aren't you. We still have the rest of the week. We'll talk about it more later. Sheila will have to send me the grand jury transcripts now that he's been indicted. Read those over and give me your take. Let me know if there's anything there to conflict with what you learned. I need something to attack the witnesses. Here." He handed me the envelope with the photo.

I grunted my assent and headed back to my car. I turned my phone back on and saw some messages. Maeva had some criminal records back on the two

muggers who killed the dog. I had received a return call from Clarence DeWitt, the firearms unit chief at Quantico. Some of my paying clients were getting impatient for results.

I returned the client calls first, promising to get them preliminary results by tomorrow. Then I called DeWitt back. I got through fairly quickly. He was cordial at first, but when I explained that I was investigating the shooting, he became wary. I sensed that he was worried the defense would be trying to put the blame on him or his unit somehow.

I asked about the Two Fugitive Extraction Scenario and he gave only vague answers. That scenario had been used for years and no one had ever been injured, he assured me. I asked whether he had instructed Bobu and Mossberg recently in that scenario. He said they had been through a week-long course of instruction that may have included that particular exercise, but he only taught a few of the sessions and didn't remember specifically whether that exercise was among the ones used. I asked if there were records and he gave me more vague answers. When I tried to pin him down, he finally said he was too busy to research it and any records would have to be obtained through subpoena or other proper process.

I could tell I was getting nowhere, but he wasn't trying to end the conversation. It was obvious he wanted to know what had occurred. A killing at an FBI firearms exercise fell squarely in his ambit and any deficiency in his training protocols or judgment would be devastating to his career. Had he failed to spot a rogue instructor? Woody must have gone through a course at Quantico earlier in his career to be designated an instructor. Had DeWitt failed to emphasize safety in his training? He asked me what I had learned about the shooting. I was equally vague and hinted that I was trying to find out how the loaded gun had made its way into the scenario. He emphasized that they only use red handles at Quantico and that the agents who take the firearms instructor courses are always told how to ensure there are no loaded guns out in the field for such exercises, but wasn't specific about how this was taught or what warnings were given.

After several minutes of cat-and-mouse games I decided I wasn't going to get anything useful and didn't want to make him an enemy, at least not yet. I wanted to keep him receptive in case I needed him later. I thanked him for his help and suggested that I thought I knew "what went wrong" in the exercise. This phrase caught his interest and he tried to get me to elaborate but I said I'd get back to him if I was able to pin it down. It was a bluff, since I had no idea what went wrong, but I wanted to keep him on the hook.

Before leaving the parking lot I opened the envelope and fingered the edge of the photo. I wasn't sure why Bert had given it to me. Did he want me to confront Jefferson with it? I told myself that I needed to look at it to understand how it would affect the case, but there was a nagging feeling that I was rationalizing, just trying to justify looking at a dirty picture. I enjoy feminine

pulchritude as much as the next man, the next heterosexual man, anyway, but I was so furious at Jefferson that I had a hard time thinking of her as beautiful. In the end, my curiosity won out. I pulled out the print.

The shot must have been made from a tripod or other stable platform across the room. This was no selfie at arm's length. Connie stood arms akimbo at a three-quarters angle to the camera, smiling in a sultry Lauren Bacall sort of way. Her glistening black hair fell loose to her collarbones, directing the eye to her small, perfectly-formed breasts. Her wasp waist gave more curves to her silhouette than I would have thought, considering her slimness.

Although she wore no clothes, she stood before a wooden rocking chair. It appeared to be cherry wood and had a heart-shaped hole cut in the center of the top back panel. The intended suggestion was clear. The hole was positioned directly above her private parts, but she stood at just enough of an angle so that the camera saw only the suggestion of what lay below. The chair hid the rest. It was actually quite artistically done and I wondered if she had had a professional photographer take the shot. I was fascinated for a few moments at the sheer skill involved, but that soon turned to revulsion at the very professionalism of it. It was so ... planned. An impetuous selfie with an iPhone I can understand, but what kind of woman goes to this much trouble to create such a shot? And then sends it to her boyfriend and the second-stringer she has on the hook? I shoved the picture back in its envelope and dropped it on the seat.

Back at the office I found that Bert had already sent me the transcripts of the grand jury testimony. It was amazing how fast discovery moved now with digital documents. When I was an agent it took many days, often weeks, for paper documents to be produced and exchanged by messenger.

I was more amazed when I opened the attachment and saw the transcripts. Bobu hadn't testified. Neither had Watkins or Garcia. There was only a single witness: Theodore Fitzhugh III, the Special Agent in Charge. Instead of bringing in the eyewitnesses to the shooting, she had brought in the SAC, who had made the decision to arrest on the scene. This was clever. All his testimony was hearsay, that is, things he had been told by the other agents there. The rules of evidence don't apply in grand jury, so that didn't matter for their purposes, but it meant his testimony, most of it at least, would not be admissible at trial. Sheila Morrissey was using this ploy to prevent the defense from seeing the testimony of the eyewitnesses before trial, the ones who would be on the stand there. If they testified a bit differently on the stand at trial from the way Fitzhugh described it in the grand jury, they couldn't be impeached with the prior testimony of someone else. If Bert tried, they could just say Fitzhugh must have misunderstood or misquoted them.

Although Bobu hadn't testified, Fitzhugh had testified as to what Bobu had told him. He said that Bobu had been outside the barracks looking through the glassless window to the back bedroom and saw Braswell enter the room, approach the window, turn back, bend down to reach his ankle, and then return to

the wall next to the doorway. Woody's hand had been in shadow, but Bobu could tell he had a gun as he could see a glint of reflection from the barrel. He hadn't realized it was a different gun from the service pistol Woody normally carried, and which had been unloaded and inspected prior to the exercise. Seconds later Watkins and Logan appeared in the doorway and Braswell had reached his right hand around the door frame. Bobu had seen a flash through the window and heard the shot. He went running around to the front. From that point on, the Bobu account was consistent with what Watkins and Woody had told me.

What struck me was that Bobu had told Fitzhugh that Woody had bent down to reach his ankle. I knew Bobu couldn't have seen Woody reach for his ankle. Bobu had been crouched behind a barricade outside. The window sill was about waist high. Woody's upper body would have been visible, but once he bent or crouched down, Bobu could not see what he was doing. Woody had said he reached into the SWAT bag, which would not have been visible to Bobu. Did Bobu think Woody had pulled the gun from his ankle holster? Perhaps he didn't know that the ankle holster had been found in the SWAT bag. Maybe it was Fitzhugh who had made the assumption, not Bobu. Bobu may only have said he had seen Woody reach down near the floor and Fitzhugh had interpreted that as reaching to his ankle.

This got me to thinking. Did anyone in the FBI even know that Woody claimed he had pulled the gun from the bag? Woody had said it was an accident, but according to him and everyone else I'd talked to, he hadn't said specifically that he'd pulled the revolver from the bag. Maybe they all assumed he'd carried the gun in on his person. Maybe they thought Woody meant he didn't know his gun was loaded. The only agent who mentioned the bag was Watkins. Nobody else seemed to think it important enough to mention it in a 302.

I kept reading the transcript. The prepared testimony was short, but, as I knew from experience, that wasn't the end of it. I'd testified in grand jury many times and I knew how it worked. The prosecutor decided which witnesses to call and then asked the questions he or she wanted in order to get the indictment. There's no defense counsel present. The witness, at least any law enforcement witness, will have been prepared with the questions. But grand jurors have the right, and usually the interest, to ask whatever questions they want. Most of the questions are irrelevant for legal purposes, and sometimes completely ridiculous, but there's usually one or two jurors who are smart enough or curious enough to ask some penetrating questions. The transcripts identify the witness and the prosecutor by name, but never the jurors. In the transcripts the reporter just identifies the questioner as "a juror".

The first question posed by a juror was why Woody did it. That was a bad sign. Of course, Woody did do it, but the assumption in the question was already that it was an intentional act. Fitzhugh said that agents in the Oakland office told him that Jermaine was making a move on Woody's girlfriend and that Woody found out about it. That seemed to satisfy them. Somebody asked if she

was African-American, too. Why do people ask questions like that? I have no idea. It's totally irrelevant legally and smacks of racism. Was it a white juror who thought as long as it was all African-Americans fighting among themselves, it didn't matter? Or was it a black juror who wanted to know if it was a soul sister who needed to have "justice" for Jermaine? There was no way to know. Fitzhugh answered yes.

In the old days, federal grand jurors were chosen primarily by the district court judges, who inquired among their friends and colleagues as to who would be willing to serve. Of course that resulted in grand juries that reflected the white upper class. Political correctness eventually took over. Towards the end of my career, that changed, with grand jurors being chosen much like petit jurors, seating people from all walks of life, and all races. As I said, some were smart, but there were jurors that had just about enough brains to tie their shoes and no more. Not everyone wanted to be there, either. At least in grand juries you only needed a two-thirds majority to indict, so it didn't matter much if there were some dim bulbs.

A juror asked if the defendant had confessed. Fitzhugh said no, but didn't volunteer that he had said it was an accident. The jury was left with the impression that Woody had been uncooperative by refusing to admit what he had done. There were quite a few questions coming at this point and the jury foreperson had to take control so people could be called on one at a time. It took several pages, but then I saw a follow up question. A juror asked what, if anything, the defendant had said. Fitzhugh's answer was devastating:

"According to multiple eyewitnesses, he yelled 'Die, cocksucker', excuse my language, and shot the victim. Afterward, he claimed it was an accident. He never said how it could be accidental. Then he took the Fifth."

There were quite a few questions about the gun. One juror asked if the gun could have malfunctioned. This was not the brightest juror, obviously, since Fitzhugh had explained in detail how the agents had been instructed to unload all the bullets. A gun reloading itself after the bullets had been removed wouldn't have been a malfunction; it would have been a miracle. I noticed that Fitzhugh had trouble answering many of these accurately. He obviously didn't know much about guns and gave some wrong answers. One juror challenged him when he said that the gun's safety must have been off for it to fire. Revolvers don't have safeties. I could just visualize the juror shaking his head in disbelief.

I was beginning to get a sense that there was a hole in the prosecution case. It looked like the FBI had never investigated why the SWAT bag was there and whether it could have gotten there by accident. Sheila Morrissey had avoided that area. But near the end of his testimony one juror finally asked that very question. Had they investigated whether the gun could have been carried in the bag by accident?

Fitzhugh said they had investigated. After the Evidence Recovery Team had opened the bag and determined that it belonged to Special Agent Braswell,

he said, they had checked his Bureau car and determined that it was locked and that Braswell still had the keys on him at the time of arrest. All the other agents present had been questioned as to whether they had seen him, or anyone else, carry the bag into the barracks, or otherwise had any idea how it got there, but everyone said no. As I read this, it ate at me. This should have been done before they arrested Woody, not after, but the answers wouldn't have changed anything. The only logical answer was that Braswell had gone out to his car at some point and carried the bag into the barracks while everyone else was busy with the video.

That brought a question from a juror as to whether the bag and gun had been dusted for fingerprints. Fitzhugh said yes, and that the only prints on the gun had been the defendant's. The bag was nylon with a thick canvas handle. The bag had several fingerprints on it, including the defendant's and those of Special Agents Bobu, Mossberg, Logan, and four other current or former agents, including one agent who retired three years earlier. The bag had been handled by a number of SWAT agents over the years, it was obvious. Anyone could have tossed it into the trunk of a car or moved it to make room for other equipment. This was common in SWAT team call-outs, he explained. The canvas handle did not retain prints because of its rough, absorptive surface. So anyone could have moved it. Anyone with a key to Braswell's car and a motive for doing so, that is.

I reread the testimony several times, looking for holes, but I didn't see anything useful. By mid-afternoon I was exhausted and was relieved when Bert called, giving me an excuse to take a break.

"Cliff," he said triumphantly. "I got it handled. You're in the clear."

"Meaning what, exactly?"

"I talked to the ADA. He's not going to prosecute on the animal abuse. It turns out the punk you said had the switchblade is known to the police to carry one. He had one on him once when he was arrested last year. He said there's not sufficient evidence to convict you, despite three eyewitnesses who say they saw you do it. Not exactly a resounding declaration of innocence, but you're off the hook."

"What about the dog owner, the Chinese woman? Any idea why she said she saw me?"

"Maybe intimidated by the knife guy, or maybe like you said, she's looking to sue. She'd rather sue a guy with a Hugo Boss suit than some penniless street punk."

"Swell."

"Have you looked at the transcripts?"

"I've been at it for hours. Morrissey was cute putting Fitzhugh on to testify so you can't see the eyewitnesses' testimony."

"I'm sure some of the jurors wanted to bring in the eyewitnesses, but she probably convinced them to rely on the SAC because of the time pressure."

Woody was in custody and about to face a bail hearing where he could be released. He hadn't waived time, either."

"Did you notice how he testified that Bobu said Woody reached down to get the gun from his ankle area?"

"Yeah, but that's not right. The ankle holster was still in the bag. I guess Woody could have been wearing the ankle holster, pulled it off, tossed the holster in the bag and then run with the gun over to the doorway."

"No. Trust me, things move too fast for that during those scenarios. He could have had it in a pocket or waistband, but then why go to the bag and bend down? I think either Fitzhugh or Bobu just made the assumption that Woody was bending down to access his ankle holster because they didn't know about the bag on the floor. Bobu wouldn't have been able to see Woody's ankle area or what was on the floor, so he couldn't tell which it was. I think Woody is at least telling the truth about getting the gun from the end pocket of the bag."

"So you think they don't know what our defense will be? They don't realize Woody's story is that the gun was in the bag and he didn't realize it was his bag?"

"Yeah, I think they didn't know that at the time. He didn't tell anyone. But the ERT did a good job. They photographed and printed the bag, proving it was Woody's. One of the jurors asked about that and Fitzhugh was ready with an answer. Woody had the car key and motive and no one else did. Sheila is certainly prepared for that defense if you use it."

"What else are we going to use?"

"What about a plea? You think you can talk Sheila into it?"

"The U.S. Attorney's office doesn't want a trial, despite Sheila's grandstanding before the press. They have to work with the FBI and other federal law enforcement agencies. If they look like they're persecuting their own people, they aren't going to get cooperation, their cases will dry up, the defense bar will eat it up. Even the judges expect the lawyers and witnesses to be on the same page. If the agent is hostile it screws up everything. But mostly it's the public perception. Either way, it's bad. If he's guilty then they have a rogue agent. If he's innocent, then the prosecutors screwed up charging an innocent black man. A nice quiet plea and get this off the nightly news. That's what the U.S. Attorney and the Justice Department want. The hard part will be Woody. He thinks he can beat this thing."

"Is he going to waive time?"

"No. He's sitting in jail and doesn't want to be there for two years pending trial, which is how long it'll take if he waives. He's on admin leave for now, but he won't have a job left if he's in jail for two years."

"I'm surprised he still has a job left. When I was in, the policy was that if you got indicted for a felony, you were fired, period. There was no waiting for trial. A jury found there was probable cause that you're a felon, so that's it. It doesn't have to be beyond a reasonable doubt."

“Well, we have to find something and soon. Trial’s just a few weeks away. By ‘we’, I mean ‘you’.”

“You’ll get your week, but that’s it.”

Mission Accomplished
Banner displayed on the USS Abraham Lincoln
As President Bush landed, May 1, 2003

Chapter 15

The rest of the week passed quickly. Too quickly. I continued to try to get something from Garcia or Bobu, but they wouldn't talk to me. Nothing came up on social media. It looked like all the eyewitnesses had shut down their Facebook and Twitter accounts. Connie Jefferson had hers open and was obviously still highly active socially. I considered calling her back to read her the riot act over that sexting to Jermaine she hadn't told me about, but I saw no point. There wasn't anything she could do to help Woody, and there was plenty she could do to hurt him if I got her mad at him or me.

From Bert I got the names of the ambulance personnel and doctors who transported or treated Jermaine. He'd gotten them in discovery. I interviewed them all, but that turned out to be a dead end. Jermaine hadn't said a word to any of them the entire time.

I spent most of my time talking to Gina Nguyen and other FBI employees in the San Jose Resident Agency, trying to find co-workers who would testify to Woody's character and lack of a temper. I also did my best to drum up more contributions to his defense fund. I can say that I did some good there. The defense fund had crept up over fifteen thousand, but that was still a drop in the bucket for what he would need.

When I talked to Gina, I also got a little more perspective on ASAC Dawson. I didn't like the tactic, but I flat out asked her for any dirt she may have on him. She didn't like it any more than I did, but she surprised me with an anecdote. It seems he was raised in rural Virginia in a privileged white family and hadn't entirely lost the societal views of that upbringing. She said he'd always been fair, professional, and politically correct in the office and in his work, but not always outside of work. She told me of an incident at the local watering hole when he was having a beer with the guys – white guys, that is. He sprang a joke on them that went like this:

Dawson: Did you know that there are really only two African tribes?

Guys: No, what are they?

Dawson: The Monbacks and the Motisas.

Guys: (puzzled looks)

Then Dawson stood and stepped backward, waving both arms in a come-to-me motion like you might see someone on a loading dock use, and restated the tribe names in a thick southern African-American accent as "C'mon back" and "Mo' tea, suh?" With the latter, the gestures switched to a stiff servant's stance, tilting an invisible teapot. Of course he laughed at his own joke.

Gina emphasized that she didn't hear this herself. One of the guys told her about it, so she wouldn't be able to testify. She said this with obvious relief. She told me the name of the agent who had related the story to her but said he probably would deny it if asked to testify.

Still, this was good stuff. If Dawson was a closet racist, that provided a possible motive, although a thin one. How would he know who would shoot whom when he placed the bag in the barracks? Bert could probably insinuate that Dawson didn't care who got shot; he just wanted Woody to get blamed for bringing a gun into the scenario, and maybe fired. Some black jurors would be impaneled. Maybe Bert could get one or more of them so pissed off at the anecdote that they'd hang the jury. I called Bert to let him know of this incident. He was mildly enthused.

"Good work, Cliff. He had access to the spare car keys in San Jose and he's a racist. Opportunity, sort of; motive, possible, I suppose, but hard to believe based on that one joke. If the prosecution puts him on, I can use this on cross, but I don't see why they would. I doubt I can get it in during my own case in chief. He would have had to know in advance the scenario the firearms instructors would use and bring the keys with him. And why would he use this method if he wanted to get Woody in trouble? It would be a lot easier and more certain to just give Woody a no-win assignment of some sort and then can him for failing at it. He could assign him to find D.B. Cooper. The judge would make me lay some groundwork that I don't have."

"Yeah, it's thin. So I think I've done all I can. My week's up. I'm sorry I haven't been able to come up with something proving Woody's innocence, but sometimes that's because they aren't innocent."

"Cliff, I still need more. You've done a good job, but it's not enough. You can't bail out now. Woody doesn't have the cash to hire someone else."

"Not my problem. Speaking of money, I'll be submitting my bill. Half rate on my time. Maeva volunteered to work for free on this one, so I'm not going to charge Woody for her time. I'll pay her out of my own pocket, though. I can't let her work for free. It's a labor law violation and she needs the money. What are my chances of getting reimbursed for expenses at least?"

"Slim right now, but send me the bill. I'll have to get Woody's approval to pay you and with you leaving him in the lurch, I don't know whether ..."

"Oh, the guilt trip thing again. It's not going to work. I'm outta here. How's Woody doing?"

"As well as can be expected. I've been sending Louise over every day to keep him informed and keep his spirits up. That seems to be helping."

It took me a beat to remember who Louise was – that associate with the red glasses and wonky eye.

"Did you get the car dusted for prints?"

"I did. They're still trying to match up all the prints. There were hundreds of them, including many from other agents."

“How about just on the rear hatch or the interior hatch release button?”

“So far just Woody’s and Mossberg’s of the people who were out there at the range that day.”

“Yeah, Mossberg drove the car to Oakland for storage and opened the back to make sure there were no guns or other FBI stuff there. He was up front about that.”

“You think he might have a motive?”

“Mossberg? I don’t see what it would be. The problem is the same. Why would anyone else put the bag and gun in the barracks? They couldn’t know who would find the gun and who would get shot. He was one of the most forthcoming of the agents I talked to, him and Watkins. Bobu, Garcia, and Fitzhugh are the ones who refused to talk. Dawson wasn’t much better.” I chose not to tell Bert about the Obama picture prank Mossberg had pulled back at Quantico.

Just then my front door opened and through the glass partition I saw a young Hispanic woman walk in. My door was closed but I could tell she asked for me. I saw Maeva talking to her, presumably asking if she had an appointment or what she wanted. Maeva looked my way and I could see her say I was busy. The woman turned from Maeva and strode into my office without warning, stepped up to my desk, and tossed an envelope full of papers at me.

“You’ve been served,” she declared in a neutral voice, turned, and left. I just sat gaping at her disappearing form.

“I heard that,” Bert announced a second later. “Is that a subpoena on this case?”

I opened the envelope. It was a civil complaint captioned May Leung v. Clifford Knowles.

“No. It’s that Leung woman suing me. Trespass, Injury to Property, Negligence, Intentional Infliction of Emotional Distress. Alameda County Superior Court.”

“Limited case?” That referred to the dollar amount sought. Limited cases were under \$25,000. I scanned the document again.

“No, unlimited.”

Bert whistled. “More than \$25,000 for the killing of a dog. She’s got balls. Who’s her lawyer?”

“Helen Lam.”

“Not good. She’s a former AUSA.”

“Meaning what? She’s top notch?”

“No. Meaning she’s a sleaze. She’s the daughter of Victor Lam.”

“Justice Lam? On the Ninth Circuit?”

“One and the same. When she was an AUSA she got caught altering an agent’s affidavit after it had already been signed by the magistrate. The agent, from U.S. Customs, had gotten it signed late at night at the magistrate’s home on an emergency basis, without the approval of an AUSA. The magistrate gave him the original. He took it to her for filing the next day. When she read it over, even

though the magistrate had already signed it, she thought it was a bit weak and made some factual changes to bolster it so that it would hold up on appeal if it came to that. What she didn't know was that the magistrate had made a copy of the affidavit and provided that to the court clerk. The sharp-eyed clerk noticed the differences between the two affidavits and reported it. Sheila was allowed to resign rather than get fired."

"Why wasn't she disbarred? Or prosecuted for obstruction of justice?"

"She would have been if she hadn't been the daughter of Victor Lam. No one, not even the magistrate, wanted to be the one to incur his wrath, to be the one who got his daughter disbarred or convicted. The lawyers all appeared before him regularly or at least had their cases go to him on appeal. Even the district court judges with their lifetime tenure could have their cases overturned and be publicly humiliated in his appellate opinions, so they all kept quiet about it. She doesn't practice in federal court now. She chases ambulances. Watch your back with her."

"You really know how to cheer a guy up."

"Send me a copy of the complaint, would you? I'd like to see it."

"Why? My insurance carrier will handle it, like you said."

"I'm curious."

"Fine, but don't go charging me for your 'legal opinion.'" I put heavy sarcasm on the final phrase.

"No charge. From the goodness of my heart."

"Pardon me while I gag. Bert, it's been fun, but I'm returning to my actual life now. Good luck with Woody's defense."

"Cliff, look, I know ..."

But I cut him off. "I have to go. I have to notify my carrier of the lawsuit and I have a zillion other things to catch up on. They're called paying clients." I hung up before he could say any more.

I called my professional insurance carrier and, at their request, faxed them a copy of the complaint. They told me to go to their website and fill in the facts of the case. I did, condensing the story to a single paragraph. Then I gave Maeva a timesheet of my latest hours and asked her to prepare an invoice for Breen's law firm. I called Ellen to let her know that I was officially off the Braswell case and would try to get home a little early. I spent the last two hours calling clients and apologizing for delays. I managed to pick up one new job, too.

When I got home, Ellen threw her arms around me and planted a big kiss on my lips. I was too surprised to respond as I ought. She said she was glad to finally "have me back" and thanked me for doing what I could for Woody. She didn't ask me what I'd found out or whether I thought he was guilty. She knew better.

Sleep that knits up the ravell'd sleeve of care.
William Shakespeare

Chapter 16

Over the weekend our world changed. Tommy's tooth broke through and he started sleeping through the night. Most nights, anyway. And when he did wake up, it was only once. That meant Ellen and I could get enough sleep. Sleep! Finally! Ellen became her old self in a matter of two days.

We spent the weekend doing all the things we'd planned to do with our baby. Long walks in the park. Going to the playground and letting him see other babies. Sometimes Ellen would carry him on her chest in the Snuggli. Sometimes I would. Sometimes we'd put him in the stroller. I tickled him. He laughed like crazy when I did that. I don't think I'd understood how much joy could come from parenthood until I heard him laugh.

So I was in a good mood Monday morning when I arrived at the office early. Maeva wasn't even in yet. I put the coffee on and started to work on the new case, a due diligence investigation on the background of a new corporate Chief Financial Officer. Maeva arrived twenty minutes later and was surprised to see me in.

"Oh, you're here," she said. "Did you hear?"

"Hear what?"

"Braswell's been fired by the FBI. It was on the radio."

I shook my head. "Poor Woody. I'm not surprised. Even if he beats the rap, his life has changed unalterably for the worse."

"Beats the rap.' You think he's guilty then?"

"I don't want to, but yes, I do. He's lied to Bert and me from day one. There's no other logical explanation."

Maeva clucked her tongue in disappointment. She'd no doubt wanted to be helping free an innocent man. She took off her jacket, then pulled out her own cup and poured coffee for both of us. I gave her an assignment on the new case and asked her to forward to me all her work on the backlogged cases.

The phone rang several times. Once I saw from the caller ID that it was Bert, I called out to Maeva not to put him through. She told him I was out. His only message was to call him. I had just gotten started on the caseload when I got a call from the insurance claims agent. He asked me some questions about the incident that had not been covered in my summary. He took down the names of the punks I had identified at OPD. After fifteen minutes of questions I told him I had to get back to work and to please hurry it up. At that he told me that the company had decided I was not in the scope of my business as an attorney or private investigator at the time of the "event." I was just taking a walk, so I wasn't covered by my professional liability policy. He recommended I submit the claim to my personal insurance carrier.

This ticked me off, but I knew there wasn't any point in arguing with him, at least not right then. I hung up and called my homeowner's insurance agent. I had a nice big million dollar personal umbrella policy, so I wasn't worried. I didn't care which insurance carrier settled the claim. It took another half hour to get through and tell the story again, this time adding that my professional carrier had denied coverage on the ground it wasn't part of my business. Once again I was directed to fill in an online web form. Another twenty minutes went down the drain.

By the end of the day I was fully back on track. Thanks to some crackerjack work by Maeva the previous week, I was able to complete one investigation that had been dragging on too long. I knew my client, the acquiring company, would be happy with my findings, too. I had to stay late, but I finished the report and submitted it before I went home for the day.

Tuesday morning went by equally fast. Around noon I went to the gym to lift weights, my first good workout in days. I hadn't gone running in over a week. I knew I needed the aerobic, too, and vowed to get out for a run the next day. I promised myself I'd take Ellen geocaching over the weekend, too. A nice long hike would do us both good.

Bert called several more times that afternoon and I kept dodging him. He emailed, too, of course. I opened the email, and as expected, it just said that Woody needed me and to give him a call. I knew he'd try to suck me back into the case if I talked to him.

Just before quitting time, the kicker arrived in my inbox. My personal insurance carrier denied coverage on the grounds that it occurred during the course of my business and therefore should have been submitted to my professional carrier. I blew my stack and let out a blue streak such as Maeva had never heard from me. I apologized and she just laughed and told me she'd heard worse than that in PG-13 films.

Okay, so I'd return Bert's calls and pick his brain. He'd know what to do. I still had his number on speed dial. I hit the button and got to his secretary. She put me through right away.

"Cliff, thanks for returning my calls. I know you want out of the case but I'm desperate here. I ..."

"Save it, Bert. I'm not coming back in. I gave you the courtesy of a call back to see if there were any new developments and advise you if there were, but that's all."

"There are. Woody's been fired."

"I heard. That's got to be rough, I know, but it doesn't change anything on the case. I meant any new evidence."

"Not without an investigator. That's what I need you for."

"Let me ask you a question. I submitted the insurance claim on the Leung suit to my professional carrier and my personal carrier. And they ..."

"To both? Let me guess. They each denied coverage saying you should submit it to the other one."

"How'd you guess?"

"Happens all the time. They want you to pay premiums your entire life and never make a claim. Pure income, no expenses."

"So how do I handle it? Do I have to sue them? Complain to the Department of Insurance?"

I heard Bert chuckle. "If I handle it for you will you come back to help Woody?"

"I'm sure you're a good trial lawyer, but I need an insurance company to pay the claim or the judgment if it goes to trial."

"I didn't mean I'd represent you on the case. I meant I could get the insurance company to defend you."

"How?"

"Trust me. No charge. Goodness of my heart and all that shit. I got the criminal case dropped."

"Fine, do your magic. I'll consider helping some more on Woody's case, but that's all I'll promise."

"It's a deal. I'll call you tomorrow."

"Tomorrow? What're you going to do? Hold a gun to the head of the insurance company?"

"I'll tell you tomorrow."

We ended the call and I went home still mentally muttering epithets to myself. I decided not to tell Ellen. There was no point in worrying her.

* * *

He'd said he'd call tomorrow, and he was true to his word. He called me the next morning. True to his word, he had handled it.

"Good news. Your professional liability carrier will provide you your defense," he said smugly. I could hear the "I told you so" in his voice.

"Great. So how'd you do it?"

"Simple. I sent you a check. I contacted the insurance company's legal counsel and told them I was the attorney who hired you and that I assigned you to investigate the case. You invoiced me and I paid your invoice. It was hourly billing and included the specific hours when the dog attack occurred. You were on business for me. I offered to send them copies of the fee agreement and invoices, and threatened to sue them if they didn't cover you."

"You sent me a check? I hope that wasn't a bluff."

"It's in the mail. Only a thousand, but I had to cover those two hours. So you're gonna help Woody out now, right?"

"I said I'd think about it."

"Think, schmink. What's to think about? You owe me, big guy."

"Actually, you owe me. But I'll put in an hour or two later today, check the trap lines, see if anything comes up. Have you gotten any more since we spoke yesterday?"

"More forensics. The fingerprint matching turned up many more hits on the car and SWAT bag."

"Dawson's?"

"Yes, inside on the passenger side. Not on the trunk or the bag or the trunk release. He must have ridden in that car at least once. I got medical, too."

"What'd that show?"

"What you'd expect. The bullet was fired in a contact shot to the right abdomen, piercing the large intestine and liver, then an artery. Logan bled to death. The bullet was recovered and matches Woody's personally-owned revolver."

"Anyone else's prints on the gun? Or the shells in the gun?"

"No, just Woody's, and it hadn't been wiped down anywhere, either. I hired an expert and he said that Woody was the last one to handle that gun, and in fact the only one to have handled it after it was last cleaned and wiped down. He said even if someone had handled it with gloves, there would have been smeared prints."

"So nobody else could have planted that gun there."

"Right, according to my expert."

"So what now?" I was hoping he could give me something to work on, even though I'd only promised him a couple of hours.

"You're the investigator. Bring me something."

"So it's on me, now, is it?" I scoffed.

"You're the man. The anchor."

We both laughed. "I'll get back to you when I've broken the case wide open," I said sardonically.

"Please do."

Ten minutes after this conversation I got an email from my insurance carrier telling me they agreed to defend me in the Leung case and would be sending me a letter to that effect. Things were looking up.

I decided to check the Facebook and other accounts of the agents who were on the scene. Nothing. I checked the firearms forum again, the thread I'd started about the arrest scenario, to see if "Bubo" had posted anything. There were two more posts there from others, but nothing from him. Interestingly, though, one of the other posts was from a police chief in Ohio who recommended the Two Fugitive Extraction Scenario which he'd learned when he was at the FBI's National Academy.

The FBINA, sometimes just called NA, is a school for law enforcement professionals run at Quantico, using the same classrooms and facilities that the FBI agents use, including the firearms ranges and Hogan's Alley, the fake town. It's designed primarily for top-level officers who are, or soon will be, managers.

It's considered a career must for those who seek big city police chief posts. Many foreign police officials attend, too.

I used the private message feature on the forum to contact him and asked if he had a written copy of the scenario and its procedures, or a link to one. I also asked him when he had been through that training. I was hoping he would tell me he had been there at the same time as Bobu and Mossberg, but I knew it was a long shot. Before signing off I decided to try direct contact with "Bubo" again. Now that someone else had mentioned that scenario, I thought I had a good excuse to contact him for his opinion, and it wouldn't look suspicious. I messaged him, pointed out the post by the Ohio chief, and asked if he knew that scenario and recommended it. I reminded him who I was – the instructor in Canada who had asked about barricades – and thanked him again for his previous advice.

Short on ideas, I decided to talk to some of the people who came on the scene later, the Evidence Recovery Team. I didn't think any of them had any information that wasn't in their reports, so it was a long shot. Not everyone on the ERT was an agent. Support people also served on that team. I began by calling the FBI main number and asking for them by name. I knew a few of them from my service there and started with them. I left messages for two of them and connected with a third, a woman who'd been on a squad with me years earlier. She was happy to talk to me but didn't have any useful information. Her job had been to log the times and keep track of who came and went. I'd already seen her log sheet and didn't spot anything out of the ordinary in it. She didn't see anything suspicious or significant. There hadn't been much evidence recovered, so the search was quick. She confirmed that Woody's car was fully locked when the ERT arrived. She never saw anyone opening it or touching it until the team officially searched it, which was videoed.

I called two of the team members I didn't know. I had their names from the discovery documents. I didn't get through to either one of them. The only other employee on the site that I knew of was Rory Zimmer, the garage mechanic who had brought out the spare keys to Woody's car. I knew him pretty well since I'd often had to deal with him as a Legal Advisor whenever a Bureau car was in an auto accident as well as when my own Bureau car needed service. I managed to get through to him but he had to leave. He was in a car pool. He said he'd be glad to talk to me, though, just not today. I said I'd call him tomorrow and we hung up.

* * *

The next day I got only one call back, an ERT agent I didn't know. He asked me what it was about and I explained who I was and what I was doing. He said he didn't want to talk to me and hung up. So much for my irresistible charm.

I went back to my regular work. By Wednesday evening I'd almost forgotten about the case. I'd received a fat check for a job I'd finished two months ago. For these Internet companies that can produce instantaneous results to a search, they sure are slow to pay. I celebrated by going home early and taking Ellen out to dinner. Tommy stayed home with a sitter, a teenage girl who lived on our block. When we got home she asked me if I carried a gun. She knew I'd been in the FBI. I told her no, not any more. She said she liked to shoot and even went deer hunting with her father once.

That reminded me of Huntress. I went online and checked that police instructors' forum again. There was a reply to my private message to Bubo, only instead of replying using the messaging feature, he had replied using the personal email I had set up for her. He told her that he was familiar with the Two Fugitive Extraction Scenario and had used it. He said it was a good scenario, but added the warning, "Stick with the basic scenario and avoid the modified one." Whoa, Nelly! There's a modified version? And why should one avoid it, pray tell? My antennae went up. Bubo went on to ask her if she still hunted moose and did she also like to hunt deer. He wondered whether she ever got to California, then said he was including a link she might find interesting. He ended with a winking emoticon and the link. I clicked on it. It was a picture of Chris Bobu, shirt off, standing next to a stag he had presumably killed. I had to admit, his pecs and biceps were quite impressive.

Holy moly! Now I had proof Bubo was actually Bobu, not that I really doubted it. And he was flirting with me! The dirty dog was trying to get Huntress out to California for a hunting trip. No doubt he had a secluded cabin in mind. Bobu was married, I was pretty sure.

I immediately replied. I asked what the modified version of the scenario was and why he didn't recommend it. I said that I'd never been to California but had always wanted to. I added my own wink emoticon. I couldn't help but laugh inwardly, thinking of what Bobu's reaction would be if he only knew it was me he was flirting with.

I stayed up late waiting to see if he would reply, but there was nothing that night. The following day I had a thick envelope waiting for me at the office from my insurance company. It had come in the mail late the previous day, after I'd gone home. It was a letter declaring that they were undertaking to defend me on the civil action by the Leung woman and gave me the name of the attorney who would be representing me, a Hiram Twomey. I'd never heard of him, so I looked him up in the state bar website. He was a partner in a large firm in Oakland that I'd also never heard of. He'd graduated from Empire College School of Law. I'd never heard of that either, so I did some more checking. It was accredited by the state bar, but not by the American Bar Association. Not much of an endorsement, but the guy passed the bar and was a partner in a trial firm apparently with years of experience. It was the insurance company's money,

anyway, so I didn't much care. I expected they'd settle for a couple of thousand as a nuisance fee. There were some forms to fill in and sign, which I did.

I called Bert and told him about the exchange with Bubo-slash-Bobu. I asked if he had received through discovery a scenario write-up for the Two Fugitive Extraction exercise. He said he had, but that it didn't say anything other than to do it with no loaded weapons present, to use at least three arresting agents, and to have the less-dangerous fugitive try to flee if given the chance. It was a single short paragraph. That's what had happened in Woody's exercise, so far as he could tell. It appeared that the scenario was run according to the official plan, other than someone introducing the bag and gun.

I told him he should request or subpoena a copy of the Modified Two Fugitive Extraction scenario. He thought about it and said before he did that, he wanted me to follow up with Bobu using my fake identity. He didn't want to tip his hand to the prosecution yet. I told him I'd already put in my two hours, but that if I got a reply from Bobu, I'd let him know what he said.

I thanked him for helping with the insurance claim. He asked me who my counsel was and I told him about Hiram Twomey.

"Twomey? Really? Let me ask you something. Did they include a reservation of rights in that packet they sent?"

I didn't know what that was, so he explained it to me. In insurance law, the company is typically obligated to pay for the claims if the insured is found liable of negligence or most other torts. There's an exception, however, for some intentional torts like assault and battery. It's against public policy. That's so that a person cannot insure himself against liability for those actions and go around beating or raping people with impunity. The whole point of punitive damages is to punish and deter those who might intentionally do nasty things, like torture animals in this case, not to compensate the plaintiff, so it has to come out of the personal pocket of the defendant to serve its purpose. Depending on the terms of the policy, even with negligence claims, the company may be liable for actual damages, such as medical bills of the plaintiff, but not for punitive damages. It's also possible that not all causes of actions are included in the policy, either. However, the insurance company is required to notify the insured that they are reserving their right not to be held liable for those damages. That's what Bert was talking about. I looked through the paperwork. There was a reservation of rights.

After I told him yes, he replied, "You need *Cumis* counsel. Know any good trial attorneys in the Oakland area?"

I had heard the term before but had only the vaguest notion of what it was. The *Cumis* decision had come down while I was still in law school, but after I had taken a tort class, so I never heard it explained.

"So what is that again? I remember there was a case ..."

"Your insurance company is trying to screw you. They see this case as one where the actual damages, the economic value of the dog, is minimal but the potential for punitive damages is high. A rich white guy like you before an

Oakland jury – if they believe you tortured the dog, or even if they just don't like you, they could hit you for five figures, even six or seven in punitives. The company hired an operator like Twomey to see that if it goes to trial the damages are characterized that way so the company doesn't have to pay. Under *Cumis* you have the right to hire your own attorney to protect you against that."

"I'd have the right to hire my own attorney even if I didn't have insurance. What's the point of insurance, then?"

"One: they can probably negotiate a low settlement if you're lucky, and they'll pay that; two, and here's the one you'll like: they have to pay the fees of the *Cumis* counsel. That's what the court ruling said."

"So you know this Twomey guy?"

"Oh, yeah. He's a one hundred percent insurance loyalist. His whole firm is. It's partly owned by the insurance company. You need me, buddy boy."

"And they have to pay?"

"They do. I'm twice the rate for regular insurance defense counsel, so they'll probably kick and claim you aren't entitled to *Cumis* counsel, but I'll take that risk. It'll cost you ... nothing."

The long pause at the end was too significant to ignore. "Nothing except ... ?" I asked.

"Just stay with me to follow up on this modified scenario thing. At your regular rate. You'll get paid for investigating and I get paid for defending you. It's a win-win."

"Unless you lose the case for me and I get hit with that seven-figure judgment that my insurance doesn't cover."

"O ye of little faith. Have I failed you yet?"

"I seem to recall a certain incident at the OPD."

"I took care of that. You're off the hook. So am I your *Cumis* counsel or not? If you don't want me, then get someone else, but don't rely on Hiram Twomey."

"Okay, okay. You're hired."

"Send me a copy of the civil complaint. I have to notify the insurance company that I've been hired as *Cumis* counsel. They'll probably try to claim you don't have a *Cumis* right, but I won't charge you no matter what. As long as you stay on the case."

"Such a deal."

"So do yourself a favor and look into this Leung woman, would you? Hiram isn't going to hire an investigator to go after her, I can tell you that. If she's swearing to the police she saw you kill the dog, she's dodgy. There's something there to find."

"I had Maeva do a criminal check on her and she's clean there. I'll have her send you the background on Leung and the two thugs, I mean, 'witnesses'."

"Do that."

So now I was back in the case big time. Ellen wasn't going to like it and I certainly didn't either, but I knew in my gut that it was what I needed to do. I couldn't leave that question unanswered about the modified scenario. What was Bobu getting at there?

First, though, I had to watch out for number one. I reread the civil complaint from Leung. She was claiming that the dog was a pedigreed pure bred pit bull worth thousands. I knew Maeva was better at online searching than I was, so I asked her to check that out, to look for a website or breeders' registry that might confirm Leung had a legitimate breeding operation. She asked me what account to bill her time to, and I told her to make it admin time. I couldn't charge a client for this.

I still had no return calls from the ERT personnel I'd left messages for, but I remembered that Rory Zimmer had said he'd be willing to talk to me. I called him again. It took me forever waiting on hold before he picked up. It seems that mechanics in the middle of a greasy job don't like to drop everything for a phone call. When he came on the phone, though, he was cordial and reiterated that he'd be happy to talk with me on the weekend. He couldn't take the time in the middle of the workday. Rory had always liked me ever since he got sued by for an auto accident that happened while he was driving the Bureau tow truck. He was in the scope of employment, so I handled it as a legal advisor and we settled with the plaintiff. It was a simple case, but, like most people, he was deathly afraid of getting sued and had been greatly relieved when I'd told him it was handled and the suit had been dismissed. I figured it was worth meeting him in person, so I offered to buy him lunch if he'd meet me on Saturday. He accepted, but said he'd be up in Tahoe this weekend. We agreed to meet the following Saturday and he suggested a spot to meet in San Mateo County.

I was running out of ideas so I looked back over my notes. I had never followed up on the MythBusters filming, so I decided to see what I could dredge up there. I found the contact info for Michael, the one I'd talked to last, and called him. When he answered I reminded him that I'd spoken to him about preserving the film from the day of the shooting and asked him to prepare a copy for me to pick up. He was hesitant and explained that after I had talked to him he'd run my request by the company's lawyer who said they couldn't provide anything without a subpoena. I asked if they'd preserved the film and video and he confirmed that they had.

This led to another call to Breen. When I told him I wanted a trial subpoena issued to MythBusters, he asked me what I expected to find. I told him probably nothing. Even if they had been filming the right direction, the target shed and line of trees in the parking lot blocked any view of the barracks or classroom area. He was reluctant to issue the subpoena since it would probably require a hefty fee for the copying, not to mention my time or Maeva's to review it. I pointed out that I didn't have much else going and that it would probably all

be digital and thus pretty cheap to obtain. It would also probably be massive quantities that the prosecution would have to assign someone to review, since they'd be notified of the request when the subpoena was issued. That might give him some leverage in plea bargaining. In the end, he agreed to it for that reason alone. I asked if Woody had considered the plea deal and he told me he was still refusing to consider it, but Bert was still hopeful he could talk him into it. He told me over ninety percent of criminal cases ended in plea deals and in the end defendants nearly all agree because it's the best outcome, even as they profess their innocence.

By the time I finished that call Maeva said she had something for me. She sent me a link then walked into my office to look at my screen over my shoulder. The website was for a breeding kennel in Oakland. It didn't have Leung's name on the website, but it was her address. Sure enough, Leung bred pit bulls, or at least the website said she did. There were pictures and pedigrees of over a dozen dogs. The pups, called "bullies," were cute as could be, but that belied their preordained future as vicious watchdogs. All the pictures of adult dogs showed them in the most fierce light possible. One was ripping into the padded arm of a trainer. Another was posed growling next to a sign that said Beware of Dog. The featured dogs had names like Hitman, Shockwave, and Slasher. These weren't your cuddly pets; they were bred and trained to be killers. I had no difficulty believing it, either, considering what I had experienced there. Pictures of recent adult dog sales showed prices in the low thousands range.

Maeva showed me an overhead picture on Google Earth of the residence. I hadn't realized how deep the lot was. The large backyard held another structure, which I now realized must be the kennel. It was easily twice the size of a regular garage and had an adjacent fenced area that could be a dog run. As distasteful as I found the site, I realized that Ms. Leung might have suffered a significant financial loss. I told Maeva to keep digging.

Checking my traps again I found that Bobu had replied to Huntress's personal email. Her question had been about what was wrong about the modified version of the scenario. His reply was cryptic, but intriguing: "The more complications you introduce into it, the more things there are to go wrong. Just stick to the standard scenario."

I wanted to reply immediately, but I didn't think it would be credible if I did. Huntress was supposed to be a busy professional and couldn't be hanging out at her computer waiting for his reply. He could get suspicious. I decided instead to call Clarence DeWitt, the firearms unit chief back at Quantico. Now that I knew there was such a thing as a modified Two Fugitive Extraction Scenario, I had reason to question him further.

I called and left a message. He didn't call back after an hour, so I called again and left another message saying it was urgent. Still no call by three thirty, so I called my old classmate Billy Clubb, the previous unit chief, and asked him if he had DeWitt's home phone number. He was reluctant to give it, but when I

insisted I had to reach him today and that DeWitt had already left Quantico for the day, he gave it to me.

DeWitt answered the phone himself when I called. I reminded him who I was and apologized for calling him at home. He seemed mildly irritated, but didn't hang up. He immediately asked me if I had determined "what went wrong," the same phrase I had used when I last talked to him. He was still intensely curious, I could tell, but equally reluctant to get drawn into the murder case.

"I'm getting closer," I replied. "I'm pretty sure it had to do with the Modified Two-Fugitive Extraction Scenario."

"How do you mean?"

"Well, can you tell me which version of the scenario Bobu and Mossberg went through when they were out there?"

DeWitt had told me before he was too busy to research it, but I suspected the first thing he had done after we hung up last time was to look up his notes or other paperwork on the class. He hesitated before answering, then replied, "Well, I did get a chance to check that out, and it says we ran the MTFES on the second day in that class."

"MTFES stands for Modified Two-Fugitive Extraction Scenario, I take it."

"Right. But we modify that several different ways. It depends on how many are in the class, how much time we have, which instructors are there from my unit, which site is available, and so on. I can't tell you exactly how it was modified."

"What are some of the ways it is modified?"

"I thought you already knew that. How do you know that you've found what went wrong?"

He had me there, but I bluffed my way through it. "Clarence, look, I'm constrained here by attorney-client privilege. I'd tell you the whole story, but I really can't. If you tell me just what scenario Bobu learned, it can help bring this thing to a close."

"I'm telling you, I can't because I don't know. If you were out here, I'd walk you through all the variations. I can't describe them all over the phone. Sometimes we have four agents outside, sometimes three. Sometimes we have a barricade outside for protection, sometimes we don't. One of the buildings we use is smaller than the other two and configured differently. I'm sure all three are laid out differently from what you have out there in San Francisco."

"Seriously, you'd do that, walk me through?" I asked.

There was a pause on the other end. He obviously had not thought I would take him up on that offer, but didn't think he could back away from it. "Uh, yeah, if you were here. Why? You planning to come out?"

"I can be there the day after tomorrow. Will that work?"

I could hear the sigh on the other end. He didn't want this, but felt pinned down. "I suppose. The range will be in use in the morning and afternoon, but there should be an hour and a half around lunchtime when I can take you out to Hogan's Alley."

"I'll be there by ten A.M."

"Okay. Report at the front reception desk and I'll have a visitor's badge waiting for you."

When the call was over I sat there wondering what I had done. Short lead-time travel was expensive. I was too big to take coach and would have to spring for business class. What did I think this trip was going to show, anyway? Well, I had made the leap for better or worse. I looked up air fares online and choked. It was going to cost over two grand. There went the check Bert said he'd put in the mail for me, and I was already at least three grand in the hole. And that didn't even count the hotel room I'd need.

I expected Ellen to blow her stack when I got home and told her I had to fly back to Washington tomorrow, but she took it in stride. Ever since Tommy started sleeping through the night she was a different person, which is to say she was the same person she used to be before Tommy. Maybe her mood was just because she'd been to the doctor that morning and learned that she had lost ten pounds since the last checkup. I didn't tell her I was flying on Woody's case, so she probably thought it would just be another business trip that would be covered by my client.

*Excellence is an art won by training.
We are what we repeatedly do. Aristotle*

Chapter 17

The next day I got up early and went into the office. There was no reply from Bobu to Huntress. None of the ERT agents had returned my call. I took care of a few things on my paying cases and headed for the airport. Because of the three-hour time difference, it takes virtually all day to fly back to the east coast. I picked up my car rental and drove from Dulles to Manassas where I had reserved a room. It was well after dinner time when I arrived, and the airplane food hadn't done the trick for me, so after checking in I found a nearby bar that was open and served hot wings and other meal substitutes. The bar was full, mostly men with very short haircuts. This was jarhead territory and there were probably some truants from the FBINA or new agents class there, too. One TV was tuned to ESPN and the other to CNN. It brought back some old memories. I enjoyed my beer and hot wings and struck up a conversation with two guys I overheard talking about the academy. As I had suspected, they were there for National Academy. One was Scotland Yard and the other was from the RCMP. That's the Mounties in case you didn't know.

One beer led to another so I was taken by surprise when my phone rang and it was Ellen. I'd forgotten to call her when I landed and she let me know that was not acceptable. Of course she could hear the bar noise in the background, too. I apologized and decided to call it an evening. I made a face to my drinking buddies like what can I do. They made some remark about the old ball and chain and I faked a chuckle. Ellen was a lot of things to me but none of them even slightly resembled a ball and chain. Back at the hotel I made one last check of my email. It was just the usual junk, so I hit the sack.

The next morning I rolled into the FBI Academy a few minutes early. My badge was waiting for me as promised, but I had to wait for my escort, which turned out to be DeWitt himself. He turned out to be a surprisingly small, thin man with a Don Ameche mustache. In person his voice was deep and rich, like Johnny Cash's, which seemed incongruous given his stature. He asked me about my flight and we exchanged the usual pleasantries. He took me around to see the newer parts of the facility. There had been quite a bit of construction since I'd last been there. I was impressed.

Eventually we got out to the firearms range. Hogan's Alley was the most changed feature. That's the mock town where agents and NA students are trained in "real life" scenarios. There was a deli there now and townhouses. People were actually coming and going from the deli since it served real food. DeWitt explained that arrest scenarios were sometimes held with actual non-participating diners there, just like in real life. When we walked by the blue mailbox, I tried to open it, but it was welded shut. DeWitt told me people kept putting mail in them.

The “restaurant,” unlike the deli, turned out to be fake. It was a classroom inside, but no one was in it.

The first scenario location DeWitt showed me was the townhouse. This was three stories tall, very unlike the barracks at Santa Rita. He explained how it was used to teach agents how to search for fugitives starting from the ground floor and safely going upstairs. I asked if that scenario was one that was taught to Bobu’s class. He said his notes showed that it was, but that wasn’t the MTFES. I looked around but didn’t know what I should be looking for. There were closed cabinets and I knew from my own training that fugitives often hid in those, even ones that looked way too small. Sometimes fugitives modified cabinets or even walls to create hiding places.

I started opening the ones in the kitchen as DeWitt watched. After I’d explored them all he told me I’d missed the fugitive. I told him no way and he grinned and asked if I wanted to bet. I knew better and told him to just show me. He went to the dishwasher and opened the door. The guts had been removed and there was a compartment inside big enough to hide a man all scrunched up. I shook my head in mock dismay.

He took me to the next site, a drugstore. He said this was where they trained agents to use a “master key,” the tongue-in-cheek term for a battering ram. A back door was bare plywood and had apparently been recently used for that very training. He took me inside. There were aisles filled with mock goods. It looked very much like a real drugstore. I picked up some of the “shampoo” and found the bottle was a lightweight plastic prop. DeWitt told me movie set designers had helped design and build the entire town. This site, too, was not the one used for the scenario.

We then went to a single-family residence at the end of Hogan’s Alley. This was the one. It was two-story, much larger than the barracks in Santa Rita. It was sparsely furnished, and what furniture there was was pretty beat up. It was obvious that there had been some wrestling matches taking their toll over the years. I wondered how often they replaced the stuff. We went through the whole house once briefly. I didn’t see anything that jumped out at me as significant.

I asked him to walk me through the exact scenario Bobu had gone through. He said he couldn’t because he hadn’t been the instructor on duty for that. He pulled out his cell phone and punched a button. He called someone and asked him to come over to “the house.” Apparently this had been prearranged with the instructor who had been on duty, one of the people in DeWitt’s training unit. They had known I would be coming and DeWitt had checked the schedule.

Walter Park was his name. He was a sturdy, fit-looking Korean-American and full of energy, the epitome of gung ho-ness. He told me he remembered the scenario for that class. He told me two unit instructors, including him, acted as the fugitives and there were three agents, including Mossberg, Bobu, and an agent from Chicago as the arresting agents.

He walked me around the outside and showed where one agent was positioned in the back yard, one in front, and one on the side. He said the Chicago agent was the one there on the side, and had taken a protected position behind a stone birdbath. Since there was no birdbath there, I looked at him quizzically. He laughed and went around the corner of the house and carried back this enormous stone birdbath, lifting it like it was a balloon. I was impressed until I touched it and realized it was made of Styrofoam and painted to look like stone. He placed the birdbath where it had been during the scenario.

Mossberg had been in back and Bobu had been in front, Park went on to explain. Bobu had knocked on the front door, announced himself as FBI, and demanded Park come out. He had crouched to one side as they were taught, so that a shot through the door wouldn't hit him. When he got no response Bobu had reached over to the front door handle and found it to be unlocked. He'd shoved the door open and burst through low. Park had originally been in the front room, but had left toward the back when he heard Bobu knock and demand he come out. Park had gone into the family room which was on the same side as the Chicago agent, but Bobu had heard him run and had seen him dart into that room. Park had taken a barricaded position in that room behind some furniture, he said. Bobu had appeared with his weapon at the doorway and demanded he surrender. At the same time, the Chicago agent had moved up to the open window that looked into that room and told him not to move or he'd shoot. Park was trapped between the two arresting agents and surrendered. The arresting agents had stayed behind cover the whole time and did a good job. Mossberg had made the arrest in the back yard of the other fugitive without incident and had come into the house to help, walking that fugitive in front of him, cuffed. They all met in the family room and the fugitives were taken out safely in handcuffs.

I noted the differences between the scenario Park described and the fateful one I was investigating. Mossberg had made a good arrest in the back yard, so the fugitive playing the same role as Woody had not run back into the house. Logan at Santa Rita had burst through the door without warning, unlike Bobu here at Quantico, and had caught up to Watkins, the fugitive, in the hallway. Back home it was the other fugitive, played by Woody, who had bolted for the side room. The family room was in an equivalent position to the empty room, once a bedroom, where Woody had been. In Park's version, the Chicago agent had run up to the window and gotten the drop on him from behind while Bobu was confronting him from the doorway. At Santa Rita, Bobu had held back behind the barricade. Maybe that was why Bobu didn't want to talk about it. Maybe he was thinking that if only he had left cover, run up to the window, and demanded Woody surrender maybe the shooting would never have happened.

I asked Park to take me into that side room again. I'd walked through it once, but that was before I knew that it was the equivalent to the room from which Woody had shot Jermaine. I looked around. Park had said he had taken a barricaded position, but I didn't see where. There was a fake flat screen TV

bolted to the wall with some open built-in bookcases below. He couldn't have taken shelter there. There was a single sofa in the corner, but it was shoved up against the wall, both the back wall and the side wall. He couldn't have gotten behind it without hauling it out away from the wall, which he didn't have time to do. There was no coffee table. I asked Park where he had taken his position. He walked me upstairs and into one of the bedrooms. There in the corner was a steamer trunk used as a side table to the bed.

"That trunk was downstairs in the family room. We use it as a coffee table sometimes."

He walked over to it and picked it up easily. It was another Styrofoam prop. He carried it downstairs and placed it in front of the sofa. Then he upended it and crouched behind it, demonstrating his position. He simulated a gun with his right hand. His back was to the window and he faced the doorway. I could see how an agent rushing to the window could get the drop on him and force him to surrender.

"Just how does this scenario differ from the regular scenario? What makes it 'modified'?" I asked.

DeWitt had followed us silently through the reenactment until now, but here he spoke up.

"Like I said before, there are lots of modifications. They're different each time."

Park added, "More props. More furniture this time. Usually for regular agents the exercise is done on the ground floor and the furniture is all moved out."

I found the term "regular agents" to be curious.

"What do you mean 'regular agents'? New agent trainees or agents here from the field offices on in-services?"

"Both. Anyone who's not a firearms instructor or SWAT. We found that there were too many injuries. Agents tripping over the furniture, or horsing around and falling on it, breaking it up. With the instructors, they're on better behavior and more skilled. They take it more seriously because they know if they don't pass they can't be a firearms instructor. So we up the ante and give them more to think about. Like here, taking cover."

"Taking cover? How do you mean?"

"That was the point of the exercise. The birdbath, the steamer trunk. We emphasized after the exercise how there are always places where you can take positions of cover if things go to shit. We talk about that a lot in the classroom. Out here they practice it. They're supposed to take that back to the field."

"So that trunk, that piece of luggage, isn't there in the standard Two-Fugitive scenario?"

"Right," Park answered. DeWitt shifted uneasily but didn't say anything.

"Did you tell Bobu and the others to use props in the scenario when they do it back in the field offices?"

“No, we don’t micromanage like that,” DeWitt finally said. “Every field office is different. They don’t have a Hogan’s Alley, or the Styrofoam props. We just want them to take back that it’s important to take cover in any shootout situation, to teach that.”

“Did Bobu or Mossberg talk about the scenario, about the trunk or the birdbath?”

“Not that I recall,” Park said after a few moments.

I had a feeling that I was onto something, but it didn’t quite fall together. Could Bobu have wanted to duplicate the scenario by having a prop barricade in the side room? A SWAT bag was no steamer trunk, but the bags were pretty big and full of heavy stuff like Kevlar vests and boots that could provide some cover in a shootout. It was plausible, but why use Woody’s? And how would he get access to it? Could the bags have been switched after the scenario? No, that didn’t work. Woody had drawn his own gun from the bag, so it was his bag from the beginning. Surely Bobu had his own SWAT bag. I knew he was on SWAT team one, the “varsity” team, if you will. He probably had other props he could have used, too, maybe a table or something in the target shed.

I had them run me through the scenario two more times but I didn’t pick up on anything more. DeWitt announced that we had to get off the range because a class would be starting soon. Park went over to the armory while DeWitt and I walked back to the administration building. He apologized for not being able to take me around to other areas I might enjoy, like the athletic fields, and so on, but he had to get back to work and as a visitor, even an ex-agent, I couldn’t be alone on the grounds.

I told him I understood and thanked him for his time. My flight was leaving in three hours and since this was a Friday afternoon, I knew the airport would be crowded. It was over an hour’s drive and I had to turn in the rental car. I took off and headed directly there.

The flight home was uneventful and this direction the time zone difference worked in my favor. As I sat on the plane I began to formulate a plan. I didn’t think it had a high probability of success, but it was the only chance I could see to find out what really happened out at Santa Rita. It was time to try something proactive.

I've always dreamt of having some sort of undercover job. I think it's probably the coolest thing in the world ...

Rashida Jones

Chapter 18

Saturday was the first truly normal one I'd had since the case began. Tommy's tooth was all the way through now, so he was much more manageable. Ellen was getting enough sleep and so was I. We had a ton of errands to take care of that Ellen couldn't do during the week with Tommy in tow, but I didn't want to wait on my plan. The weekend was the best time to contact Bobu.

When we got back from a run to Costco and Ellen was busy nursing, I called Maeva's cell. She was surprised, but, as always, made no complaint.

"Are you interested in more undercover work?" I asked, trying to make it sound tantalizing.

"On the Braswell case?" she replied enthusiastically.

"Yes."

"You want me to meet up with Connie Jefferson again?"

"No. Something different. This is more of a vamp role." I was concerned she would be offended at the idea of me pimping her out. I needn't have worried.

"Do I get to wear something sexy?" I could hear the excitement in her voice already.

"Within reason."

"I'm in. So what do you want me to do?"

"I have to set it up first. I'll let you know as soon as I can. It's nothing dangerous," I reassured her.

"That's too bad," she replied, disappointed.

I liked this girl. Talk about a lucky hire.

I logged into my Huntress email account. Bobu had used his personal email to contact her and send her his shirtless photo. At least it was *a* personal email account. I doubt that it was the normal one he would use on his home computer since he was married, and, well, I don't have to spell it out.

I sent him a Huntress email saying I would be in the Bay Area next week visiting an old college roommate and asked if he would like to meet for drinks. We could talk about deer hunting in California. The plan was now in motion. All I could do now was wait.

By Sunday morning he still hadn't replied. Ellen and I went geocaching for the morning, taking Tommy along in a stroller. Ellen liked to do rigorous outdoor geocaching, like kayaking or long hikes in the mountains, but that wasn't practical now. We chose the Los Gatos Creek Trail for the excursion. It's nearly level and paved with asphalt for miles, making it stroller-friendly. It snakes through the valley from Los Gatos all the way to downtown San Jose and is

loaded with geocaches. I kept checking my phone, willing Bobu to reply, but in vain.

Finally, late Sunday evening, he took the bait. He asked when I would be arriving and where I would be staying. He also asked for me to send him a better picture of me “so he would be able to recognize me” when we met. He attached another picture of himself, making clear the kind of picture he had in mind. It was about halfway between Vladimir Putin’s famous horseback shot and Anthony Weiner’s infamous bulging underwear tweet. He gave his real name as “Earl” and provided a personal phone number.

I forwarded this email to Maeva and told her she would be meeting this guy in a controlled environment. I told her not to reply to Bobu, but to let me know if she had any photos of herself in dolled up mode. I told her we’d devise a reply Monday morning.

I went to bed feeling like luck was on my side now. Ellen was happy, too, I think from the long geocaching session we had together. I was right; it was my day to get lucky.

* * *

Monday morning Maeva was already at her desk when I arrived. This much was normal. What wasn’t was her attire. She normally wore jeans and a modest top. Today she was wearing a skirt, or maybe half a skirt would be a better description. It barely reached mid-thigh. Her sleeveless top was a silky floral fabric cut low in front, exposing just a smidgen of the black lace push-up bra lurking below. Stiletto heels completed the ensemble.

Most startling, though, was her makeup. Maeva was a redhead and like many redheads, her very pale skin had a heavy dusting of freckles. The Maeva before me had some kind of thick white face makeup covering the freckles and had gone all out on the eye shadow and mascara. Her usual light pinkish lipstick was replaced with a dark scarlet gash. The overall look was trashy, almost ghoulish.

I had only asked her to show me some photos of her dressed up, but I suppose she had decided a personal demonstration would be better. I had never thought of her as a sexpot or anything resembling that. Her normal look, if I had to categorize it, could best be described as the cute girl-next-door type. Wholesome. Farm girl. This was nothing like that. Boy, was this nothing like that. It wasn’t the right look at all, but I wasn’t sure how to tell her that.

“What do you think?” she asked anxiously after I’d scanned her from top to bottom.

“I’m blown away. I don’t know what to say,” I said truthfully. “When you said ‘dress sexy,’ you meant it. Just stay away from any vice cops today. But this look isn’t going to work for Bobu, though, I’m afraid.”

“Bobu? The Principal Firearms Instructor? Is that who the guy Earl is?” She’d been kept up to date on the investigation and knew who’d been interviewed and who wasn’t cooperating, but I hadn’t told her the real identity of the man sending the email until now.

“Right. He won’t interview with Cliff Knowles, so I started corresponding with him in a police firearms instructor forum under a fake identity. We have something of a problem, though. The photo I used in the forum is something I found online. The woman, a hunter, is maybe ten years older than you and blonde. It’s taken from a distance and the image of her is small because it includes the moose she just bagged. I need you to look older, if possible, and we’ll need a blond wig. Either that or we’ll have to tell him you dyed your hair red.”

“Can I see the picture you used?”

I sat at her desk, signed in to the instructor’s forum, and clicked on the link to my profile page. Maeva studied the picture for a minute.

“What’s her name supposed to be?” she asked. I had never given moose woman a real name, just a forum name of Huntress.

“I’m going to need you to call him on the phone. How about we use Maeva, your real first name? You can sound natural and not have any slip ups. She’s supposed to be Canadian, which will work, since your Minnesota accent sounds like it could be Canadian.”

“What! I don’t have an accent!” The indignant pout she affected made her look like a petulant teen, totally breaking the siren look.

“Right. And I’m not overweight.”

She snorted in protest, but didn’t say any more.

“What do you want to do about the age difference? I’ve never tried to look older. I’m not sure how to do that. And I don’t know where to get a blonde wig like this.”

“We don’t need you to pass for this woman very long. Mainly we need you to be convincing enough on the phone to get him to meet you in a bar. We can pick a place with dark lighting and sit you with your back to the door or something. By the time he gets close enough to you, he probably won’t care if you don’t match the photo. He’s obviously hot to trot and won’t object to getting a younger woman. But I’m not sure where to get the wig and makeup.”

“Your wife’s sister is a model, isn’t she?”

Of course! Theresa. I should have thought of that. Ellen’s older sister Theresa was a full-time model, an “older woman” type who did magazine and TV ads for products like Cialis and facial rejuvenators. She’d been married to Mark Bishop, the local congressman, before he died prematurely of a heart attack during a running event. Mark had also been the best friend of the FBI Director when both were serving in the Department of Justice. After Bishop died, the Director transferred Ellen to this division to help Theresa mind her daughter, who also happened to be the Director’s goddaughter. This allowed Theresa to resume

her modeling career. Ellen and the Director were almost family, a fact that has come in handy for me more than once.

Our discussion was interrupted at this point when the front door opened. It was a messenger carrying a package. His eyes almost popped out of his head when he saw Maeva bending over her desk to see her screen, which I was hogging at the moment. I signed for the package and he left. It turned out be an external hard drive. The letter in the package, phrased in legal mumbo-jumbo I was all too familiar with, said it was in full compliance with the trial subpoena issued by Bert Breen, Esq. in the case of United States versus Sherwood Braswell.

The package turned out to be a one terabyte hard drive loaded with digital video files from the producers of the MythBusters show. I had only talked to Bert about that on Friday. How did they get this done so quickly, I wondered. I called Bert and found out that he had prepared the subpoena and called the attorney for the studio who agreed to accept an emailed copy. It turned out that they had preserved the footage I had requested from when I out at Santa Rita and were more than happy to provide it. They wanted to help the investigation in any way they could, but the lawyer wanted to have a subpoena in hand to protect the company from any liability for violating someone's privacy, and to maintain a precedent of legal process for any future requests by others. They had thoughtfully supplied not only the video footage, but a player on the drive that worked with the professional format they used. All we had to do was plug it into a USB port, launch the program, and watch.

A terabyte of video would take weeks to review even if both Maeva and I worked on it full-time. Maybe the drive wasn't full, but it would be a lot of video. I didn't see how we were going to do that before the trial, but then, I'd never expected we would. This was more of a ploy to cause a problem for the prosecution. They would assign a half dozen FBI agents to the task, I knew from experience, and they would not be happy campers. The AUSA couldn't afford to have the defense come up with some surprise, though, so they'd review every second of it. With the short trial date, they might be willing to negotiate a favorable disposition to avoid this, but I doubted it would matter; AUSA's don't care how much work the FBI has to do.

I told Maeva I'd call Theresa to see if she could help with the makeup and wig. In the meantime, I wanted her to start reviewing the video. I told her not to watch it all the way through, just to take a look to see if the camera was pointed toward the FBI range area, and if it wasn't, then to check a few points to verify that, and go on to the next file. She let out a sigh, letting me know how much she hated reviewing video. At least this was good quality professional television video, not security camera video like we sometimes dealt with.

I called Theresa and left a message. Then I scouted online for a place to set up the meeting with Bobu. I knew he lived in the Concord area. I wanted a place far enough from his home he wouldn't be afraid to meet there, and also far

enough from any FBI offices where people might recognize him. I settled on Milpitas, a town between San Jose and the East Bay cities that used to be known for the aroma of all the dairy farms there back in the '60s. Now it was a bedroom community with a significant high-tech sector along the Highway 880 corridor. I knew a bar there where I'd met an informant a few times years ago that was perfect for the job, assuming it was still there. I checked Street View and there it was. I wanted to check it out in person before replying to Bobu's email, so I told Maeva where I was going and took off in the Prius.

The outside of the bar had been spruced up some since I'd last been there. The name was the same, but it had a more upscale ambience although still only one or two steps above seedy. The clientele were younger and obviously from the tech crowd now, but tended to be the blue- and pink-collar segments, not the engineers and executives. Of course, it was hard to tell the difference these days, what with thirtyish CEO's wearing torn jeans. The back room was darkly lit and would work well. Bobu would have to walk through the front area where I could be waiting, monitoring the conversation. Maeva would wear a transmitter and I'd record it while listening in. Bobu hadn't seen me in at least five years, and never with my beard and without glasses. I didn't think he'd recognize me in the crowd. I decided this would do and headed back to the office.

Theresa called me as I was pulling into the parking lot. I explained what I needed. She didn't hesitate.

"Sure, Cliff, bring her over. I'll never be able to repay you and Ellen for all you've done to help Ashley. Anything you need, just ask."

"That's great, Theresa. We don't have the meeting set up yet, but it should be some evening this week."

"I'm always home by three. I pick up Ashley after school at two thirty. Send me a picture of this hunter woman so I can get the right wig."

We arranged that I'd call her when I knew what day the meet would be. When I'd hung up with Theresa, I explained this all to Maeva and asked her to make the call to Bobu.

We went over what she would say. I described the bar in Milpitas and she rehearsed with me a couple of times. I had to tell her to lower her voice a bit. She'd sounded too girlish, but after she changed her vocal register, she sounded perfect. The call went surprisingly well. She called "Earl's" phone and got voice mail. She left a message giving him her name as Maeva, pointing out she was "Huntress," and was looking forward to meeting him. She said she would be arriving Thursday afternoon and would be staying through the weekend. She suggested getting together Friday evening. She gave him her personal cell phone number and mentioned the bar in Milpitas. As it so happened he called back when she was on her phone, so his reply also went to voice mail. He confirmed getting her message and said he would meet her at that bar at eight o'clock Friday. The meet was on and they had never even talked to each other. I suppose

I could have had her text, but I was glad I went the voice route. He would have less cause to think it was a sting of some sort.

Dogs are better than human beings because they know but do not tell.
Emily Dickinson

Chapter 19

The rest of the week dragged on at an excruciating pace, partly because we really wanted to get to that meeting on Friday, and partly because we were reviewing video. Maeva and I took turns with the tedious MythBusters work. On the unpleasantness scale it was somewhere between listening to a State of the Union speech and bamboo splinters thrust under the fingernails. I'd never realized how many outtakes and wasted footage there were when shooting a TV show. With multiple cameras shooting a scene multiple times, a five-second clip might represent hours of video time. There were several scenes where one of the hosts was talking to the camera and a volley of shots could be heard in the background, interrupting the narration. That was obviously the FBI front office personnel shooting their qualifying rounds. I could see why the crew had decided to come back later to shoot their show when they had the range to themselves. But in the footage I saw, never did the camera point over toward the FBI range. It was all useless.

Thursday afternoon I'd finished one of my two-hour shifts reviewing the video and took the USB drive out to Maeva's desk, happy to be done with it for the time being. She was busy with something on her screen and asked me to look at it. I immediately noticed her browser looked different. It had an onion on the tab, for one thing, and the colors were different. She was looking at a website with a video playing, one taken with a smart phone. The video was crude and brutal, showing two pit bulls fighting. In short order one of them killed the other one in a gruesome display of shredded flesh and spurting blood. The sound had been mercifully muted.

"What's this?" I asked.

"I decided to search Tor for pit bulls. I just had a feeling something wasn't right about that Leung woman. Look. Below the video this guy gives the pedigree of his dog, the winner."

"Winner doesn't seem like the right word, but okay, go on."

"So this one's sire is named Shockwave. That's the name of one her dogs."

Now I was interested. Very interested. This website, located on the dark net and accessible only through Tor, the gateway to that mysterious kingdom, was for a man selling pit bull pups, but not just any pit bulls. These were specially bred for dogfights.

"Yes, Shockwave. That was one of the dogs on her website," I replied.

"But can we be sure that's the same dog? Anyone can name their dog that."

"This seller is located in California, but that's all he says about his location. You can't get an IP address from Tor, but he could be local."

“So you think maybe Leung is breeding dogs for these fights, too?”

“Don’t you think it’s possible?”

I considered this. It would certainly put a whole new twist on the lawsuit. “That would make sense,” I ventured hesitantly. It was quite a leap to make from a single website video. Even if the site owner was breeding fighting dogs, and his dog was one of Leung’s, that didn’t mean Leung knew about either the fights or the breeding by her customer. For that matter, I wasn’t sure there was anything illegal about it. The dogfights were illegal, I knew, but I’d never heard that breeding the dogs was.

“There’s more,” Maeva said. “Look. If you click here, there’s a calendar of events. These are dogfights all over California. Fresno, Compton, Gilroy, Oakland. You have to pay an entrance fee in bitcoin before you get the actual address. Two hundred fifty, and you have to provide a picture of your dog. You can bring an ‘associate’ for another fifty.”

“‘Associate’ must mean a bettor. When’s the one in Oakland?”

“In two weeks.”

I returned to my desk and relayed this information to Bert and Hiram Twomey, the lawyer my insurance company gave me, via email. I wasn’t sure how it would change things, but it might be to my benefit.

* * *

The next day, Friday, Maeva told me she’d finally seen something on the MythBusters video. Right as the film crew was finishing up, the camera had swung around toward the FBI range briefly, no more than a second or two, before turning off. This was late in the day. She said the white Explorer was visible parked there in the lot. No one was around it. She said it was four fifteen or so according to the time stamp. This told me nothing new. Mossberg had told me that he went back to get the car late in the day. The ERT was done with it at that point.

That afternoon Maeva and I went over to Theresa’s for the makeover. Ellen was there, too, with Tommy. Theresa’s daughter, Ashley, was enthralled with Tommy. I was glad Tommy would have a cousin in the area as he grew up. This was also the first time since the initial hospital visit that Maeva had seen Tommy, so she had to compete with Ashley. I’d told Ellen about Theresa helping Maeva get ready for an undercover meet, but I’d been vague about exactly what she was doing.

“So let’s start with the wig,” Theresa declared, immediately in charge. She opened a sort of hatbox thing and pulled out a blond wig perched on a Styrofoam head. She told Maeva to sit. “You fasten it like this,” she continued, pinning the wig on in several places. “Don’t take it off. You can’t do this by yourself the first time. You won’t get it back on right. It’ll be fine for tonight.”

Theresa stood back and we all looked at Maeva then at the photo of Huntress. The color was perfect and the length was very close. The style was slightly different, but I doubted Bobu would notice. Theresa wasn't completely satisfied. Apparently she saw some stray red hairs peeking out. She adjusted the wig until she declared it done.

Next, Theresa led Maeva to her makeup vanity. There was a mind-boggling array of lotions and makeup there. The mirror was ringed with bright lights. Maeva sat in the chair of honor while Theresa fussed over her. Ellen stayed in the other room to watch the kids.

"What you don't realize," Theresa explained, "is that a lot of those 'older' women you see on the boner pill ads are actually young. It's not hard to have the body of a twenty-eight year old if you are twenty-eight. I have to work at it, since I'm forty-two. Don't let my white hair fool you. That runs in the family. Ellen's got it too. So the trick is to make you look older."

She began to draw delicate lines at the corner of Maeva's eyes with a fine brush. "Everyone has crow's feet, but in younger people they're so subtle we don't notice them. We just darken them like this. Around the mouth and forehead, too."

Theresa worked on Maeva for a good thirty minutes straight, explaining the process the whole way. It was fascinating. I'd seen those makeover shows on television where a frumpy-looking woman was turned into a fashion plate, but I'd never seen it in reverse. Maeva wasn't becoming less attractive, just more mature. In the bright makeup mirror I could see that the wrinkles had been enhanced, but that was probably only because I had watched it being done and knew what Maeva looked like normally. In a dark bar, I didn't think Bobu would notice.

When she was done with the makeup, Theresa asked Maeva to show her what clothes she was planning to wear. I had warned Maeva to tone it down from the display she had put on in the office, but when she emerged, the skirt was still scandalously short, although not quite so tight as before. The stiletto heels were gone, replaced by stylish sandals with low heels. The blouse, like the last one, had a plunging neckline. Theresa nixed both the skirt and blouse as too trashy. She took Maeva into her enormous walk-in closet and picked out a longer skirt and a several tops. After some modeling we all settled on a sleeveless sweater with a scoop neck that displayed no lingerie.

When we came out, Ellen, who was nursing Tommy, gave the whole look a thumbs up, too. Ashley wasn't interested in Maeva's look, perhaps because she'd seen her mother in so many different outfits and heavy makeup, but she was totally engrossed in the breast-feeding. She was peppering Ellen with questions, who did her best to answer them. It had been decided that Ellen would spend the evening with Theresa and Ashley since I'd be gone.

The time had come to make something happen. Maeva and I drove to the Milpitas bar. It was still a couple of hours early, but I wanted to test the

microphone setup and acquaint her with the layout. We went into the back room where she would be later, and took a table. She sat and put her phone face up on the table. It had installed on it an app that took the audio feed from its microphone and broadcast it. My phone could receive the signal, and I could listen in real time through ear buds. None of this was visible to anyone looking at the phone. This sure beat the heck out of the old days when you had to have concealed cameras and mikes in fountain pens and briefcases. Everybody was carrying around a recording device openly these days. I was planning to record the conversation, too, although I didn't tell Maeva that. It was illegal to do that without Bobu's consent and I didn't want her to take the risk. If it ever came out, she could honestly say she didn't know about it.

After we were seated I walked back to the front room and ordered two beers from the bar. This place didn't have servers. I returned to Maeva, placed the beers on the table and then returned to the front room. As I had instructed, she started talking like someone was at her table. There was no one else in that back room at this hour, so it didn't seem suspicious. I listened through my ear bud then played back the recording. The audio came through fine. We were set. I rejoined her and we sipped at the beers for several more minutes, long enough so it wouldn't seem odd to the bartender, then took off, leaving the glasses half full. That seemed a shame to me, but we both needed to stay sharp.

I took her to a nearby restaurant and we went over several different scenarios. I assured her I'd be right in the next room and there would be a crowd of people around, so she was in no danger. She was to be flirty, but not obviously coming on to him. I was hoping he would proposition her and it couldn't sound like she was the instigator. I wasn't planning on blackmailing him, but it was always good to have something to hold over a reluctant witness. All I wanted was for him to talk to me. Maybe an embarrassing recording would help persuade him to do so.

I could tell Maeva was nervous as the hour approached, and I was beginning to wonder whether she'd hold up. We couldn't back out now, so I just kept up an encouraging stream of banter. By seven thirty we were in place in the parking lot of the strip mall, at the end farthest from the bar. We saw no sign of Bobu in the lot. I went into the bar alone to make sure he wasn't there, which he wasn't. Today I was wearing a flannel shirt and jeans, and a ball cap, enough of a disguise for our purposes.

I saw that the back room was beginning to fill up, mostly with Asians, so I ordered a beer and grabbed an empty table. I took off my cap and put it on the table, then went back outside to get Maeva. She came in with me and we stopped at the bar. The bartender was a different one from when we'd been here earlier in the day, so he didn't recognize us. I offered to buy her a beer but she refused and asked for a mimosa instead. We set her up at the table in the back room and I took my beer back out to the front. The tables were all taken so I sat at the bar and plugged in my ear bud. The guy next to me tried to talk to me, but I ignored

him and he gave up quickly. Maeva was singing softly to herself, which I took to be her attempt to make sure the audio link was still working.

I'd been at the bar no more than a minute when Bobu walked in. He was ten minutes early. I took this as a good sign. He was anxious to meet his conquest. He looked around at the tables and didn't see a blonde woman. I turned away as he scanned the bar, but I kept an eye on him in the mirror. I could see he wasn't wearing a wedding ring. Without missing a beat he walked around the side of the bar to the back room.

"Maeva?" I heard him say tentatively in my ear bud. Obviously it hadn't taken him long to recognize her.

"Earl, I recognize you from your picture," she replied sweetly. Too sweetly. Too girlish. She'd forgotten to lower her voice, I realized, and I wondered whether he would notice.

"You look great. Your hunting picture with the moose doesn't do you justice."

"Oh, that. Thank you."

"Really. You look too young to be a police instructor."

"I get that all the time. It's hard being a woman in a man's world. The men keep calling me a girl."

"So are you out here on business? Or for hunting?"

"Neither. Visiting a friend."

"I thought you said you'd never been to California. Did your friend just move here?"

"No, but I'd never had reason to visit her. Until now." I could hear the flirtatious tone now.

Bobu apparently did too. "So I think I'll get a drink ... unless you want to go somewhere else?"

"Here's fine," she replied coyly.

Bobu came out to the bar and ordered a whiskey sour. At one point we made eye contact in the mirror and I averted my eyes, but was it in time? I sat staring down at my beer for what seemed like an age while the bartender made the whiskey sour. I glanced up when I could no longer stand it and Bobu was still looking at me. I immediately turned to the guy next to me, the one I'd given the cold shoulder to before, and started talking to him. I began by apologizing for ignoring him before, claiming I had been listening to a ball game and it was in the middle of a tense situation with a runner on third and the score tied. He was startled at first but was glad to have someone to talk to and of course asked what game it was. I had no idea who was playing where and mumbled that it didn't matter. I saw his glass was almost empty and told the bartender to get another one for my friend here. This seemed a satisfactory answer to him, so then he launched into his story, which I quickly tuned out when I heard Maeva's voice through the ear buds again.

"I wanted to ask you some more about that two-fugitive scenario," she said when he returned. "Is that one you use all the time?" Maeva was pushing the agenda too fast. I wanted to tell her to spend more time on small talk, but she was making the rookie undercover mistake, trying to get the target to talk before he was ready. Bobu took a long time to answer that and I was getting more nervous.

"We can talk business later," he finally answered. "Tell me more about yourself. What department were you with again?"

"Oh, you've never heard of it, I'm sure. I'm a training officer in a fish and game department up in western Ontario."

"Really? That sounds like a great place for a huntress," he chuckled. "I know Canada pretty well, actually. My ex-wife was from there. Where do you live? What town, I mean?"

Ex-wife? I hoped that wasn't true. If he was single, then he wasn't doing anything wrong meeting Maeva for a romp in the hay. I wanted some leverage over him. I figured that he was lying because he would have used his real name by now, but I couldn't be sure.

"I live in Thunder Bay during the off-season, but during the season the district gives us lodging in cabins. It's out in the Sturgeon Lake area, if you know where that is."

I hoped Bobu didn't, because I sure didn't. We hadn't gone over her background nearly enough, I realized. I'd thought the first answer, 'a small fish and game department' would be enough to put off questions, but Bobu was obviously smelling something fishy and doing his own background check. I had a vague notion that western Ontario was close to Minnesota where she grew up, and hoped that her knowledge of Canada was better than mine.

"I've been to Thunder Bay, but never to Lake Sturgeon."

"Sturgeon Lake, actually. But enough about me. What department are you with?" I heard the "about" and didn't like it. She was trying too hard to do a Canadian accent and it sounded fake.

"Alameda County Sheriff's Department."

I was happy with this answer. He was lying for sure now and I had it on tape. Bert could use it on cross no matter what. Sure, Bobu had a good reason to lie, if he was cheating on his wife, but no matter what the reason, being caught on the stand lying, even a past lie, could be devastating to any witness, and if he was a philanderer, that just gave the jury one more reason to dislike him.

"Alameda County. Is that where we are now?"

"No. It's just north of here."

"So how did you learn this fugitive extraction scenario?"

"The FBI trains on our gun range. Sometimes we train jointly. I learned it from them. Look, you didn't come all the way out here to ask about firearms training. You could have done that by email. Why don't we get out of here and go someplace more private. I'll tell you all about extraction. I'll even demonstrate entry and extraction. Entry and extraction."

I was torn between puking and jumping for joy. As crude as his line was, it gave me the character blot I was looking for.

"Not so fast, lover boy. We haven't even finished our drinks. Let's get to know each other a little better first."

"Okay, fine. So first you tell me who you really are. You aren't the same woman in the picture with the moose. And you're no firearms instructor, either."

This was my cue. It was obvious she wasn't going to get any answers from him. I didn't think she was in any danger, but it was an uncomfortable spot for her, I was sure, so I left the barstool and headed to the back room.

Striding to her table in as imposing a manner as I could I stood over Bobu and declared, "She works for me, Chris. She's just doing her job. Leave her alone."

"Who ..., Knowles? What the F- ... Is this being recorded?"

"It is, but only for her protection. All we want to do is talk to you, okay?"

"No, not okay. I'm outta here." He stood and made like he was headed for the door, but I was standing in his path. His voice was loud and our body language made clear there was a nascent altercation brewing.

"Calm down. I'm just trying to find out what happened out there. Woody's life is on the line. If it was you, you'd want someone to get the facts."

"You want the facts? Read my 302. Now get out of my way." He stepped forward, pressing his chest against mine. I saw one of the patrons turn his smart phone toward us and start filming. I stepped back.

Bobu squeezed by me and headed for the front room. I followed right behind.

"Come on, Chris. Give me a break. I'm just doing my job like you do when you interview people. There's no reason to be hostile. You owe Woody that much." He ignored me.

We were almost to the front door when the bartender called out to Bobu, "Hey, your tab."

Bobu had asked him to run a tab and he hadn't settled it. I, on the other hand, had already paid for my drink. I realized I had a tiny tactical advantage. I saw Maeva coming out of the back room and I signaled to her to wait there and watch him. I went out the front door and waited in the parking lot.

Within seconds Bobu emerged. Once again he tried to get by me but I stepped in front of him again. Maeva appeared with her phone recording.

"Dammit, Chris, if you won't talk, then just listen," I huffed, already breathing hard from the adrenaline. "We know you planted Woody's SWAT bag in the barracks. But why? Were you trying to set him up for murder? Or just trying to create a barricade like the steamer trunk back at Quantico? Just answer that."

"You're so full of shit. Now get out of my way." He poked my chest hard and tried to side-step me.

I knew I was on thin ground legally, but he had made the first physical contact and I took a calculated risk of grabbing his wrist as he withdrew his hand. I gave it a hard twist to the outside, which I knew would hurt his elbow.

Bobu was no pushover, though. He was smaller than me, but not by much and he had fifteen years of age advantage on me. As a firearms instructor he also taught self-defense to agents and officers. I'd seen him use martial arts techniques in demonstrations. He used his training instinctively, turning quickly to relieve the pressure on the arm, and spinning that direction until his back was to me, used his opposite elbow to drive a hard blow into my solar plexus.

I staggered back, the wind knocked out of me, but had enough instinct of my own to block the kick he made at my groin. I lunged forward, trying to head butt him, but he dodged me and almost sent me flying headfirst into the pavement. The only thing that saved me was a lucky grab that caught the bottom edge of his flapping windbreaker. That brought him down with me, both of us landing on our sides. We both threw blows at the other. We were face to face, me on my right side, him on his left. That gave him the advantage since we were both right-handed. I was throwing lefts while he threw rights. We were too close and in too awkward a position for either of us to do much damage, though.

He tried to get up, but my right hand still had the corner of his jacket and I pulled him down again, this time rolling onto him. I was a wrestler in high school and was more comfortable, if that's the right word, fighting on the ground. I knew Bobu was faster than me and better trained in other forms of personal combat.

As we rolled around, I got him in a bear hug, but he was kneeing me hard, trying to get my groin. I was getting it hard in the thigh, but these blows weren't disabling.

I managed to huff out, "If you wanted to put a SWAT bag in the barracks as part of the exercise, why didn't you use your own? Huh? Why? Woody found that gun and thought it was unloaded, part of the exercise."

Bobu sensed that I wasn't fighting. I was trying to hold him still to force him to talk. This gave him an opening. He head butted me, splitting my bottom lip with his forehead. I rolled back and brought my hands to my face, dazed. Bobu jumped up and was stepping over me when I caught his legs in a classic takedown. He came down hard, but he twisted enough to land an elbow on my neck as he hit the ground.

I struggled to catch my breath for a few seconds. This stopped me from talking, not that talking was doing me any good. I was able to tie up Bobu's hands with my arms, and this time I had my legs between his. If there was going to be any groin kicking now it would go the other way.

"Up, both of you," came a voice, a loud, male voice. I realized there were two police officers standing over us with flashlights in our faces. I let go and so did Bobu. We rolled apart and both of us stood.

"I'm FBI," Bobu quickly announced, his hands in the air. "I'm armed. Holster, right hip."

I said nothing, since I realized the presence of Bobu's weapon presented a volatile situation that the police would need to defuse before anything else. I saw Maeva, now standing over by my car, still taking video. I didn't think the officers saw her.

"Keep your hands in the air," the officer continued. "You have ID, FBI?"

"Inside pocket of my jacket."

The two officers had guns out now, I realized. They stepped back and apart, which they probably should have done earlier. "Okay, pull it out slowly. Don't touch your weapon. Just the ID."

Bobu reached into his windbreaker and pulled a credential case from inside, keeping the other hand in the air. He quite literally knew the drill. He taught the drill. His badge was visible on the outside of the case. He held the case toward the officers, opening it to show the credentials inside in a practiced one-handed motion.

"Chris Bobu," he announced authoritatively. "I'm a firearms instructor. This man attacked me as I was trying to leave."

I was standing right next to Bobu, easily within the field of vision of both officers. The one who had been talking to Bobu turned his eyes to me, but the other kept his eyes on Bobu.

"Are *you* armed?" he demanded.

"No. I'm retired FBI. We know each other. I didn't attack him. He was the first to lay hands on me. My assistant has it on video if you don't believe me. It just got out of hand. We're done." I wagged my head toward Maeva, who was holding her phone up. The red light was still on, indicating she was filming.

"You have ID?"

"He's retired FBI," Bobu said resignedly. "He's okay."

I waited for a command from the officer before lowering my hands, but it didn't come.

"Jesus Christ. Two feds." The senior officer stepped closer now, his gun holstered. He smelled our breaths and told us to step apart and lower our hands. We did so. "How much have you guys had to drink?"

"One," we both said simultaneously. At this point I noticed a young Asian couple in the parking lot waiting to come into the bar, but afraid to enter the scene. I hoped they weren't filming this, too. I wanted any video of it to be in my control. "Sorry, officers," I added. "It's all over."

"Does either one of you want to press charges?"

Bobu and I looked at each other. We both shook our heads and mumbled a negative.

"Here's what we're going to do," the cop continued. "You're both going to walk to your cars and leave in opposite directions. Walk in a straight line. If you stagger or waver, I'll arrest you for drunk and disorderly."

"Thank you, officer," Bobu said. "That's all I was trying to do." He brushed himself off, gave me his best sneer, and started walking between the officers and into the lot.

As he left, I yelled to his back, "Jermaine is dead because you carried that gun into the scenario. Admit it. Clear your conscience."

"Enough," barked the cop. "You heard me. Walk to your car. Now."

I started walking. Maeva was still standing there filming. I got to the driver's side and started to get in. I called over to Maeva to get in, but she didn't right away. As I was strapping on my seat belt, I heard a car pass behind us, presumably Bobu leaving. I turned my head and saw that he turned right as he pulled onto the street. I turned on the ignition. The cops were standing by, watching to see that I left. Maeva slipped in and closed the door. I threw it in reverse and pulled out, and when I got to the street I turned left per the cop's instructions.

"Cliff, that's it!" Maeva exclaimed, jabbering so fast I couldn't understand her.

"Christ, I'm bleeding," I replied, noticing for the first time that my lip was still dripping blood onto my shirt.

"Listen to me. That's the car! Didn't you see it?"

"What car? What are you talking about?"

"Bobu. Did you see what he was driving? It was an Explorer. A white Ford Explorer."

The significance of this didn't strike me at first. I pulled over to the curb and stopped. "The same make and model as Woody's," I responded, but even after thinking about it a minute, I still didn't see how that changed anything.

"That's the car I saw in the video."

"Which video? The MythBusters one or the ERT one?"

"Both, I guess. Well, the MythBusters one, anyway. The one at the tail end of their footage as they were taking the cameras down. One camera swung that way for just a second. I saw that car parked there by itself."

"So Bobu's car was there. That's no surprise. It was supposed to be there. He rode with Mossberg back to Oakland with Woody in custody. He would have left his car. Mossberg told me the garage guy drove them both back to get Bobu's car and to take Woody's back."

"There was only one car there all by itself. If that's true, then there should have been two Ford Explorers." I thought about this. Maeva was right.

"How do you know it was Bobu's car and not Woody's you saw?" I realized I came across as angry. I was still pumped up.

Maeva seemed a bit cowed, but quietly replied, "I guess I don't, but it sure looked like it. I just now got a picture of Bobu's. The resolution on the other one was really good. I think we can read the plate if we pull out a still frame from that one. We can compare."

I had to sit for a few minutes and let the adrenaline dissipate. I tried to visualize the scene at the range late in the day. Woody's car should have been surrounded by ERT cars. Mossberg had told me he checked with the ERT members before driving off Woody's car, so their cars would still have been right next to it. I remembered watching their video as they approached Woody's for the search and there were cars all around it. There was only one white Explorer visible in that video scene, but there could have been another one farther away in the lot.

Then it hit me. I had been thinking of the parking lot the way it had been my entire career, a small east-west lot where cars faced to the north, toward the shooting range. But the scrawny trees had grown larger and an auxiliary lot had been added behind the target shed. The MythBusters crew shouldn't have been able to see the main parking lot because of the trees and the shed. If they'd pointed their camera toward the range area, they'd see the auxiliary lot on the other side of the shed from the main lot.

"Come on. We're going back to the office. I want to see that video."

Maeva said nothing. After several minutes, I realized she was still too intimidated by the fight scene and confrontation with the cops. I had been speeding and mouthing silent curses at the drivers and stoplights around me, too.

"Hey, you did well there today," I said, trying to lighten the mood. I was driving slower now. I even smiled. "I didn't mean to yell at you."

"It's okay. I'm sorry I couldn't get him to say what you wanted."

"You did fine. I just got overexcited. My bad."

"Are you going to be okay? Maybe we should stop at the emergency room."

"I'm fine."

The rush hour was mostly over and we were going the counter-commute direction so it didn't take long to get back to the office. It took a few minutes to boot up the computers and start up the video program. Once it was up and running, though, it was fast finding that one second of video showing the Explorer. Maeva had made a note of exactly where it was when she had found it.

As soon as I saw it, I knew that was Bobu's SUV, not Woody's. The lot in the scene was the auxiliary lot, just as I had thought. The main lot was obscured. Woody had told me he parked in the main lot and I had seen the search video there, too. Maeva was pulling up tonight's video on her phone to compare vehicles, but I told her not to bother. This one was the same year and model as Woody's, almost brand new, but they were in separate lots.

This seemed like it had to be important, but it still didn't make sense. Bobu knew where he'd parked his car. If he'd wanted to put a SWAT bag in the exercise to copy the scenario back at Quantico, he wouldn't have confused the two cars, and he didn't have keys to Woody's anyway, so he couldn't have done it accidentally. Nor did he have a motive to use Woody's bag, either, that I could see, so that ruled out doing it intentionally.

I realized it was time to wind down and call it a night. It wasn't all that late but I wanted to get home for Ellen's sake. I knew I'd be leaving again tomorrow for that lunch with Rory Zimmer and Ellen wouldn't be getting her free Saturday.

I stepped over next to Maeva and put my arm around her shoulders. "I meant it when I said you did a great job tonight. You'll be telling this story to your grandchildren someday. I'm sure it'll sound a lot more exciting when you tell it."

She grinned sheepishly at me. "I thought it would be different. More fun, I mean. I was kinda scared when the fight started. I thought if he knew I was filming he wouldn't shoot you."

"Uh, yeah. I probably should have remembered that rule: 'Never start a fistfight with an armed man who is an expert shot and a martial arts instructor.'" I grinned back.

She laughed. I could tell it was forced, but it obviously helped her mood. "So are we done for tonight? I can stay ..."

"Go home. We'll regroup Monday morning." She turned and gave me a big hug.

"I'm really glad you're okay. You'd better clean up before you go home."

I looked down. I was a mess. My lip had stopped bleeding but the shirt was bloody. As soon as Maeva was gone I took the shirt into the men's room and soaked it in the sink in cold water, then spread it out to dry on a chair in my office. I keep a spare shirt at the office, so I put that on. I washed my face, combed my hair, and brushed off my pants and shoes. It would have to do.

*I always liked those moments of epiphany,
when you have the next destination.
Brad Pitt*

Chapter 20

The next morning I got up early and did all those honey-do list items that had been piling up for over a week. As many as I could, anyway, before Ellen woke up. She was still mad at me when she did wake up, partly for coming home with a split lip and even more so when I refused to tell her what happened. I'd just told her it was nothing and not to worry. Right. I got quite a lecture that night about what it meant to be a responsible parent now that I had a child.

The chores ameliorated her mood somewhat but I got another lecture when I told her I had to leave for an interview. This one centered on how I was supposed to schedule those during the week because I'd promised to take Tommy on weekends. Zimmer had refused to talk during the work week. I couldn't name him, but I told her "the guy" would only talk on a weekend. It didn't help.

When I got to the restaurant, Zimmer was his usual profane, talkative self. He'd already had two beers and wanted to talk about the Giants. I'd remembered he was a big Giants fan and had actually looked at the sports page that morning, although I usually don't bother. I sounded like a fan, too. We ordered food on the waiter's third visit to the table and Zimmer ordered a third beer.

When he finally settled back for a long swig, I saw my chance to get on track.

"Hey, I need to ask you about that day when Jermaine got shot. Can you tell me what happened?"

"How the hell would I know? I weren't there. They just called me and told me to bring the spare keys to Braswell's car out to Santa Rita, so I did."

"Who called you?"

"Shit, I don't know. One of the women on the ERT. She said the SAC wanted it searched but they didn't have the key. Braswell was already under arrest and gonzo with the keys."

"What time was that?"

"I dunno. Christ, don't they have a log for that or something?"

"Probably. Okay, so you got there. Then what?"

He took a long drink of beer. As he put it down he reached for a piece of bread and began to butter it before answering. "Nothing special. They had the video camera going and I pulled out the key fob on camera and they walked around the car to show all the doors were locked, then they opened it. It's all on the video."

I'd seen the video, of course, but I didn't tell him that because he'd just ask me why I was asking him, then. "Then what?"

He was chewing on his bread by this point and needed to swallow some more beer to wash it down. I was anxious for answers, but trying to rush Zimmer is like trying to make a flower bloom. You just have to let nature take its course.

"Then nothing. I just went back to my truck. I was going to leave, but the SAC told me to wait, so I waited."

The waiter arrived with the food and I made the mistake of talking to him when he started to reverse the orders. This gave Zimmer a chance to start talking about the Giants again. I acted as enthused as I could. At one point I managed to ask him about his trip to Tahoe. I figured he might have less to talk about on that one trip. I knew he could talk about the Giants forever.

As we were halfway through the meal, he gave me another opening, and I picked up where I'd left off. "So I heard you picked up Mossberg and Bobu in Oakland. How'd that happen?"

"The SAC was talking to Bobu and I guess the Sheriff's Department had to have the parking lot clear so they could use the range the next day. They wanted all the cars out. Bobu had his car there, so the boss told me to go pick him up in Oakland and bring him back."

"Why did you have Mossberg drive Braswell's car back to Oakland? Don't you usually store seized cars back in the secure San Francisco garage, maintain chain of custody and all that?"

"Shit, Knowles, what've you been drinking? It was a Bureau car, man, not a seizure. We park Bureau cars in Bureau parking lots all over. Why not?"

"Well, there's still the chain of custody. It was involved in a crime. They took fingerprints on that car later. Maybe those prints won't be admissible since it was in an open garage."

"It weren't involved in no crime. The shooting was out at the barracks, not in the car. Braswell blew away Logan in front of witnesses. Besides, it weren't me makin' no decisions. I just done like they told me."

"So the SAC told you to go pick up Mossberg and Bobu?"

"Yeah. Well, no, not exactly. He told me to pick up Bobu and bring him back. When I got to Oakland Mossberg said the SAC had called him and wanted him to come back to drive Braswell's car to the R.A. there, so I gave them both a ride back."

"Did you talk about the case with either of them?"

"Of course. An agent got shot. Everyone wanted to know what happened. While I was waiting for Bobu, I asked Mossberg what happened, since he'd been out there, but he said he was out on the range with the SAC and didn't really know, other than Braswell shot Logan. He asked me what the ERT found. He'd left before they did any collection."

"What did you tell him?"

"All I knew was they came out of the barracks with Woody's gun and SWAT bag and gear bagged. Then they made the video of the search of Woody's Explorer. Nobody told me shit about what actually happened."

“Then what?”

“That was it. I asked Mossberg to see if he could hurry up Bobu. He left. It took forever. I don’t what they were doing. When Bobu finally showed up to go, Mossberg was with him. That’s when he told me the SAC had called him and asked him to go retrieve Woody’s car. They rode in the back and talked on the way back to Santa Rita, but I couldn’t hear ’em.”

“Who had the keys to Woody’s car at that point? You?”

“No. They never gave ’em back to me. Melissa, the new agent with the ERT, the one with the big jugs, she had the keys the last I saw. She told me she was going to drive it back to San Francisco. She lived there and was going to take Muni home after locking up the car. She doesn’t have a Bureau car assigned to her. She rode out with someone else.”

“San Francisco? So why did it get changed to Oakland?”

“Shit. Don’t you listen to nothin’ I say? I don’t know. I just got to Oakland and Mossberg said the SAC changed his mind. So I took him back out to Santa Rita along with Bobu.”

“Were you there when Mossberg got the keys from Melissa?”

“Sort of. I dropped him off in the main lot and kept driving around to the auxiliary lot to drop Bobu off. His car was there. He has an Explorer, too. Most of the other cars were leaving at that point. The ERT was done. When I drove back around, Mossberg was standing there with her and they looked like they were arguing. She was holding up a pair of blue evidence gloves for him and he was shaking his head. But I saw him take the gloves. I stopped and yelled to them out the window if they needed anything else. He said no. I asked her if she needed a lift back to the city but she said she’d catch a ride back with one of the others on the ERT.”

“Was the SAC there at that time?”

This made him think for a minute. Of course, once he stopped talking, he decided to eat and drink some more. Finally he came up for air and I repeated the question.

“Oh, yeah. I don’t think so. No. I’d remember his car. We treat that baby like it’s gold. He’d have our asses if it picked up a dent or scratch. The main lot was almost empty by that point. He weren’t there.”

“So you don’t know for sure that the SAC asked Mossberg to drive it to Oakland?”

“Shit, I don’t know. That’s what he said. I didn’t have no reason to doubt it. The girl gave him the keys, so she must have figured it was okay. The fingerprint guy works in Oakland, doesn’t he? If they were going to dust it for prints later, that made sense to go there.”

“Did you see Mossberg put on the fingerprint gloves?”

“No. I didn’t hang around. When they said they didn’t need anything else, I left. What are you getting at?”

“Nothing. It just seemed odd, but I guess Oakland made sense. The fingerprint examiner works in Oakland. If they were already thinking of dusting the car, it would be easier for him to go downstairs to the garage for that than travel over to San Francisco.”

“Duh. Hey, can you believe they let the Panda go? Shit. He was ...”

And here we go again. I tuned him out at that point and started back on my food, now lying cold in a puddle of greasy sauce. A feeling of calm washed over me as I ate. The restaurant was supposed to be good but I didn’t even taste the food. I now knew what had happened. And how. And why. But how would I prove it? More to the point, how would Bert prove it? Woody was innocent and was on trial for his life. The only people who might be able to prove it would be destroyed by the truth. They also had reason to hate my guts. My penchant for pissing people off was something I took a perverse sort of pride in sometimes, but if it meant I couldn’t get the right people to cooperate with me now, Woody could get life.

We finished lunch and I picked up the tab. Rory insisted on paying for the tip, so I let him put his money on the table. I noticed as we were leaving that the tip was less than ten percent, so as we were walking out, I told him I’d left something back at the table. He thanked me again for the meal and said goodbye. I hurried back to the table in time to see the waiter picking up the tab and threw another ten spot onto the check tray. He nodded his thanks.

When I got home Ellen was still peeved at me. I took Tommy from her arms and apologized for neglecting my promise about being home on weekends. She wasn’t nasty, just snippy throughout the apology. As soon as I finished, she grabbed her purse and headed out the door. She said she had errands and would be gone at least two hours.

I put Tommy in his playpen and sat in the living room watching him. I should have been feeling the weight of the world right then, but somehow, I wasn’t. I had the life of an innocent man in my hands and no clear way to save him. I was responsible for the innocent babe smiling at me from across the room, knowing that I’d probably be dead before he graduated from college. I really needed to lose some weight for him if not for myself. But I also knew that I’d achieved something today, something important. Woody was without hope when I left this morning. Now, there was a chance. Despair had been replaced. I wasn’t sure by what exactly, but something: a feeling of urgency, a feeling that I was on the brink of something meaningful, a feeling that I wasn’t on the wrong side any more.

I knew I should call Bert, but I couldn’t bring myself to do it, not right then. It was time to enjoy my son. I got down on my stomach on the rug, my face right up to the webbing separating Tommy from me. His little arms and legs started windmilling like he was on meth. His eyes got wider and he began to drool. I’d read that extended eye contact, whether with a baby or a dog or other pet, actually raises the level of oxytocin in the blood. It makes us love each other

even more. I believe it, although I would have told you I couldn't love my son any more. At that moment, though, sheer joy flooded my every capillary. Every nerve ending sent cascades of pleasure – not excitement, but contentment – up through the synapses to my brain.

I don't know how long we lay like that, staring into each other's eyes. Eventually his diaper filled and the reverie was broken. Ellen returned when I was in the middle of the diaper change. I called out that I'd be able to help her carry in groceries in a minute but she yelled back that she didn't need help. She made a second trip to the car and when I came out with Tommy I could see she'd been to the drug store, grocery store, and library. Somehow I noticed her toenails, too. She'd had a pedicure. I never notice stuff like that, but that afternoon I did.

"Your toes look pretty," I said. Her eyes got almost as wide as Tommy's.

"Yours look pretty, too," she laughed and kissed my cheek before returning to putting her purchases away. I looked down at my fat, hairy toes and laughed, too.

"Woody's innocent." I said it simply, without inflection.

Ellen turned and demanded, "You're sure?"

"Yes."

She threw arms around me and squeezed until Tommy began crying in protest. I hadn't had time to put him down. She lifted Tommy from my arms and took him to the sofa.

"Can you prove it?"

"Not yet. Maybe not ever."

"You will."

*It will be in the last days, says God Your sons and your daughters
will prophesy Your old men will dream dreams.
Acts 2:17*

Chapter 21

I spent Sunday doing my duty (and pleasure) with Tommy, giving Ellen the free time she needed and deserved. I was itching to call Bert, but I knew he would insist on meeting once he heard what I had to say, so I waited until Sunday evening before contacting him. I texted that I knew Woody was innocent and knew the who, how, and why of it. I said we should meet first thing Monday. I hoped he'd just text back an "Okay, see you tomorrow" but of course he called. I told him I couldn't explain it over the phone, especially not with Ellen here and said I'd see him in his office Monday.

It was after ten Monday when I did show up there, traffic being what it is. I laid it out for him step by step. When I was done, he sat stunned for a minute. Then he pulled out grand jury testimony transcripts, FD-302s, forensics reports, my interview writeups, and flipped through them for another ten minutes.

"It seems ... possible, I guess, but would anyone believe it? I mean, you think it could really have happened like this?"

"It had to. It's the only thing that fits."

"No, it's not. Woody carrying his bag into the barracks, hauling out his gun and shooting Logan in a jealous rage fits. If I push your theory at trial, it's not going to be enough. Not with Woody saying 'Die, cocksucker' and shooting his own gun point blank at his rival. A jury will believe that. This, this, speculation, is going to make some people uneasy, but it's not going to convince anyone without proof."

"It's not speculation; it's the truth. So how do we get proof? Legal proof. You're the trial lawyer. I don't see how to prove it other than to convince people, or at least one juror, that it's the one thing that does fit. It explains things that don't make sense otherwise."

"You think this makes sense? I find it hard to believe and I'm on your side."

"It does make sense. Look, can't you get a preliminary hearing or a deposition or something? Under cross-examination from an expert defense lawyer like you, maybe they ..."

"No, I can't, and no they wouldn't. Everyone's going to stick to their story."

"I'm not so sure. I may be pretty cynical, but I don't think the agents are going to lie under oath. One agent, yes, maybe, but not everyone else."

"All it takes is one. The rest can tell the truth, no doubt are telling the truth, and it isn't going to help."

"Didn't you tell me the U.S. Attorney's Office wants to be rid of this case? It's a political hot potato for them. They don't want to make enemies of the FBI. Can't they help?"

"Help prove themselves to have indicted an innocent man of murder? Dream on. Besides, what could they do?"

"If you could convince them of this, maybe they'd just drop the charges."

"Not gonna happen. If we showed them hard evidence, then, yes, they'd be happy to get rid of this. Nobody wants to send an innocent man to jail. They aren't that callous. But they've heard too many creative alternate theories concocted by defense counsel to believe something just because we tell them it's so. I used to work there. The mind set is that anything out of the mouth of a defense lawyer is a lie. What about the FBI? Isn't there someone there you can convince? Maybe that senior ASAC, Chatman?"

"No chance. Heads will roll if the truth comes out, but if Woody is convicted, no one's career is threatened. I think they believe what they want to believe, that he's guilty."

"Even him?" Bert tapped the 302 sitting on top of the pile on his desk.

"Even him. I don't think there's a single lie in that 302. In any of them."

"Okay, let me think about this. I'll let you know what I want you to do in a day or two."

"Any news on the civil suit? I sent you the info on that dogfighting ring."

"I've been calling Hiram, your insurance attorney, to go together to the Animal Control people, but he hasn't replied. If he doesn't get back to me today I'll call them myself about the dogfight in Oakland scheduled for this weekend."

"No. Someone needs to go to that fight and document who's there. Undercover. If you send animal control they'll show up in force before it even starts and scare off all the bettors and dog owners. They'll consider it a win that they stopped one fight, but it will just be delayed till the next weekend. I can go with a hidden camera and get faces and video of the dogs being torn apart."

"No, no, no. And no again. First of all, that would arguably make you an accessory, paying to attend when you knew it was for illegal fighting, cheering, watching and not stopping the fight or calling police. Second, this only helps you if Leung is present and participating. She may not even know her dogs are used this way. If she isn't there you're taking a risk for nothing. If she is there, she'll recognize you and your testimony is nearly useless anyway because you're a party to the lawsuit. Unless you had video proof jurors would just think you made it up. It would have to be an undercover law enforcement officer or someone like that. Oh, and third, do you have a death wish? That's a very dangerous crowd. If you got made by Leung or anyone else there, like those guys who mugged you, you'd be kibble before the end of the day. You're not FBI any more. Do you even have a carry permit?"

"Uh, no, but ..."

"No butts is right. Keep your butt away from there. Let the police and animal control people do their job."

I resented the condescension, or maybe it was my ego talking. I thought I still had it. I was a bad ass FBI agent able to take care of myself, only retired. Age is nothing but a number and all that. But the more I thought about it, the more I realized he was right. I'd been in enough legal scrapes, not to mention physical ones. I was still nursing my split lip.

"Okay. You're right. I'll stay away."

"I'll let you know what Hiram says. I've offered to split the cost of the ticket so we can get the address of the fight, but the insurance company will pay both halves since they're paying my half too. They're probably too cheap."

"All right. So what do you want to do about the murder case?"

"Like I said, let me think about it. I'll call you."

"Okay. I'm heading back to my office. Here's my latest invoice. How's the defense fund going?" I handed him a printed invoice for over twenty grand, including the cost of the air fare and hotel for the Quantico trip. Even at half rate it was adding up.

"Not so good. I'll at least try to get you your expenses."

I headed out, expecting to be lucky to keep my net out-of-pocket losses under ten grand on this case. On the way out, I ran into Louise Dern, the associate who'd been helping on the case. She told me Woody's spirits were still good. His finances were the biggest problem. Without a job he couldn't hold onto his apartment or his car for long. She thanked me profusely for all the work I've been doing on the case. It seemed she'd been collecting his mail and serving as go-between with Gina and the other FBI agents who were providing moral and financial support. This was the first time I'd spoken to her for any length of time and I found out she had a truly irritating nasal voice. I couldn't see her arguing cases at trial. She was narrow in the chest and wide in the hips with an ungainly posture to complement her wayward eye. Any criminal lawyer in Oakland has to have a black presence in his firm, but I hoped Louise hadn't been hired just because she was black. It obviously wasn't for her experience or her looks. But she'd gone to a good school and spoke intelligently, so I was hopeful that Bert had made a good hire, for his sake and for Woody's. She was friendly and witty and I liked her. It was clear she cared about Woody's well-being and was going the extra mile to keep his life outside prison together.

Back at the office Maeva was on the computer catching up on our regular background investigation work. I thought that was a good sign until I found out we had lost one client due to slow response time on another case. I'd just been too busy with Woody's case to get to it. It was an insurance fraud case where a "disabled" worker was collecting full disability from an alleged work injury while supposedly still out doing motocross racing. They wanted video of his activity. I don't normally take insurance fraud cases any more, but the law firm was a good client, sending me a lot of corporate work. Apparently the hearing

was coming up so soon they'd had to hire another investigator to get it done. I knew I'd lost that one investigation, but I hoped it didn't impinge on the corporate work. If it did, my losses from working Woody's case would be a lot more than ten grand.

* * *

The next day Bert called me with a plan. I didn't like it, but I didn't have anything better. He said it was set up for the next day and he would need me there. I explained my theory to Maeva for the first time and told her what Bert had planned.

"Do you think it'll work?" she asked hopefully.

"Fifty-fifty chance at best," I replied.

I sat at my desk fretting over the scenario for most of the morning, unable to think about my other work. I finally had to get out of there and work off some of the nervous tension. I went to the gym, changed into my workout clothes, drove to the park, and went for a long run. It was the first long run I'd had in weeks. It felt good to let the tension flow out my muscles. The steady rhythm of my feet on the footpath lulled me into a dream-like state. The other runners and hikers passed me by or I passed them; I hardly knew which, I was so zoned out. After an hour I found myself back at my car, thoroughly exhausted. I knew I'd be paying for it the next day, but the run had been the catharsis I needed.

Completely enervated, I returned to the gym, showered and dressed. I told Maeva I was taking the rest of the day off and went home. Ellen was pleasantly surprised to see me. I told her I'd watch Tommy. She lost no time in taking advantage of the offer. She had a list as long as her arm of errands she'd been meaning to get to, so she grabbed her purse and was gone in less than a minute.

I popped a beer and finished it before she was out the driveway; I'd become so dehydrated from the run I was tempted to put down another one, but I opted for a big glass of water instead. I put Tommy in his playpen and lay down on the sofa. The next thing I knew, Tommy was crying and I awoke in the middle of a dream. In the dream I had been on a wooden scaffold, one of those you see in the old westerns, with the trap door for the prisoner to fall through. I was manning the lever that controlled the door. I wasn't wearing the black hood to hide my identity. Woody Braswell was standing over the trap door, a noose around his neck, his hands tied behind him. He wasn't wearing a hood, either. He was looking at me, staring into my eyes with a pleading look. Holding him by the arms were Trey Fitzhugh on one side and Chris Bobu on the other.

I was sweating heavily and momentarily confused. Tommy continued to cry. I sat up in a start and looked around, disoriented. I looked at my watch and realized I'd been asleep for almost two hours. Ellen was still out, fortunately. I

shook off the grogginess and went over to Tommy's playpen. He needed a diaper change badly. I wondered how long he'd been in that state.

I took him into the nursery and changed him. Then I carried him back to the sofa and just sat there holding him in my arms. I wondered about the dream. Did it mean anything? Was I going to be Woody's executioner? His savior? I'm not a superstitious person and didn't believe in omens, but I couldn't help feeling the dream meant something, if not an omen, then something about how I perceived myself, something about my own character.

When Ellen returned, I said nothing about the dream or the nap. She was paying me no attention, anyway. She talked a mile a minute. She'd been to the bank, the produce stand, the drug store, and the grocery store. She'd run into a woman she knew from the pre-natal classes, a woman I had met there, too, although I had only a vague recollection of a rotund Latina. All the women had been rotund, for rather obvious reasons. The woman had been pushing her baby in a stroller and the two had exchanged excruciatingly detailed accounts of their children's progress; at least that's how it sounded to me as Ellen told me about it.

At dinner I said almost nothing. Afterward, Ellen asked me if something was wrong, noting how quiet I'd been all evening. I told her I was meeting with Bert the next day and expected some developments on Woody's case. I couldn't tell her any more. I didn't want to get her hopes up. She accepted the explanation. After Tommy went down for the night we watched television for an hour or so, but I couldn't tell you what we watched.

That night in bed I tossed and turned for an hour, but eventually fell asleep, only to wake up three hours later, having the same dream. I was back on the scaffold manning the lever. Woody was standing there pleading with his eyes. Only this time I pulled the lever. Woody didn't fall, though. He kind of floated there as the trap door opened and let out a blood-curdling scream. I knew that someone with a noose tight around his neck couldn't scream, but in the dream it was a teeth-rattling, heart-rending, ear-piercing howl of anguish that wrenched me awake in another cold sweat.

I realized Ellen was holding me, telling me it's a just a dream. I asked her what I had said in my sleep and she told me I was just making a crying sound. I wrapped my arms around her and held her tight – as tight as I ever have. She stroked my hair for a long time. I got up and checked on Tommy, but he was still asleep. I came back to bed and this time slept the sleep of the dead. At the alarm I woke feeling surprisingly normal. I must have expunged all my devils the previous night.

I was early for my meeting with Bert. We talked about how it was going to go for a few minutes, then we walked over to the federal building. Sheila Morrissey met us in the lobby and took us back to a small conference room in the U.S. Attorney's office. On the table was a computer running a display of what looked like a live security camera feed. It showed a larger room, one that looked

very much like the one we were in, except for its size. There was no one in it, just a table and chairs, the usual government art on the walls.

"I thought the conference rooms here weren't wired up," I whispered to Bert. "Attorney work product and all that."

"I had it done special for this meeting," Sheila answered, obviously having overheard me. "DEA. I couldn't very well use the Bureau under the circumstances. Now I'm going to be bringing Fitzhugh in here in a few minutes, but he doesn't know anything about this yet. He's in my office now. I don't want you to tell him what's going on. He wouldn't stand for it if he knew. The agents aren't due for another half hour. I didn't want you bumping into each other in the lobby or anywhere."

I shot a look at Bert, but he put a hand on my arm to signal me to stay quiet. As soon as Sheila was out of the room, he said, "It was the only way I could get her to agree to this. The SAC has a right to see this, too."

"If it goes to trial, this will preview your entire cross-examination of every witness. Our whole strategy, every weakness in their case, will be laid out for them. They'll be able to fix their stories, concoct an explanation."

"I hope that's true."

"You hope that's true?!" I exclaimed heatedly. Then I realized what he meant. Of course.

A moment later Morrissey walked back in with Trey Fitzhugh in tow. He gave me an icy stare as soon as we made eye contact. I returned the look, but held out my hand to shake as he walked toward us. He didn't take the hand. I'd made him look like a fool too many times before for any semblance of cordiality. He didn't take Bert's hand, either.

Morrissey felt the chill and told us to act like professionals. "You don't have to like each other," she advised, "Just sit and watch. And listen. It's not going to be recorded, so take good mental notes. Everybody put your cell phones and other electronics on the table, turned off. No matter how this goes, I think we're all going to be glad there are no recordings. I'm going to do a sound test. I'll be right back." We turned off our phones and put them on the table.

She left the room. A minute later she appeared on the screen. Her voice came through the small computer speaker as she recited, "Testing, testing, can you understand me?" When she returned, we all confirmed that her voice was clear.

I wondered where the microphone had been concealed. The camera, too, for that matter. The DEA had done a good job.

"Who set this up?" Fitzhugh demanded. "Do you have a court order?"

"We don't need one for consensual monitoring. You know that," Morrissey replied. I knew that Fitzhugh didn't know that. He was never clear on legal rules when I was working under him, yet one more failing he had as a manager. Still, it wasn't a bad question. As long as Morrissey was present, the monitoring was clearly legal, since she consented, but once she left that room, I

wasn't sure if the consent of the U.S. Attorney was sufficient. I noticed she dodged the question about who set it up. If Fitzhugh had known it was the DEA, he might have walked out

An assistant knocked on the door and then opened it and said "Bobu's here."

"Okay, that's my cue," Morrissey said and left the room.

Two minutes later we saw Morrissey and Bobu enter the conference room on the screen. She offered him coffee, and he accepted. She didn't return to our room. Ten minutes passed while we watched Bobu sit and sip his coffee while Sheila made meaningless small talk with him. We could see his impatience in his body language. Then George Mossberg entered the room, led by that same assistant we'd seen earlier.

"Hello, George. Have a seat," Morrissey said, gesturing toward the one immediately next to her. I realized she had the chairs organized so they would have to sit right next to her, no doubt to make sure the mike could pick them up. He sat.

"Now that you're both here, we can get started," she went on. "I've been talking to the defense lawyer in this case and I've weaseled some things out of him about the defense strategy. I need to talk to you about this because it could involve your testimony." She was looking at Bobu.

"Why am I here, then?" Mossberg asked, looking peeved. "I wasn't even there when it happened. I was over on the range instructing the front office."

"I know. You could be involved, too, though, at least in the defense theory. I'll get to that. So, Chris, tell me again what you saw from outside, behind the barricade, specifically when Braswell appeared in that bedroom."

Bobu shifted in his chair, looking uncomfortable. "Okay, so all hell was breaking loose. Braswell came running into the room and looked around real fast."

"You could see him clearly, even though it was bright outside and dark inside?"

"Yeah. It wasn't that dark inside. It was him, if that's what you're asking. I'm positive."

"Okay, go on. What did he do next?"

"He ran to the window like he was going to try to escape, but he saw me there with my gun pointed right at him and he ducked back into the bedroom and bent down. At first I thought he was just trying to take cover, to get out of my line of fire, but then I saw him come back up with a gun in his hand."

"Could you see what kind of gun it was?"

"No, not at that time. Everything was going so fast. I only saw it for a split second because he turned back toward the door and his back was to me. At that point I thought it was his service pistol. Later, after the shooting, I realized he must have drawn the revolver from his ankle holster. That's why he bent down. Then he ..."

"Let me stop you there. Did you actually see him draw it from his ankle holster?"

"Well yeah. No, I mean, I saw him bend down and come back up with the gun in his hand. Where else could it be from? If he'd had it in his pocket he couldn't have drawn it out while he was squatting."

"Was there a SWAT bag on the floor?"

"Oh, is that it? The defense is going to try to say he got the gun from my bag? You're kidding, right? I'll testify that ..."

Morrissey interrupted him again. "There's a problem there," she said cryptically. I looked at Bert and Fitzhugh and they were staring at Bobu, but I turned my focus on Mossberg as Morrissey continued. "That wasn't your bag. It was Braswell's."

"What? No way. That's what Knowles was saying, but I knew it was bullshit."

"Knowles? Who's he?" Morrissey knew perfectly well who I was, but she gave no sign of it.

"He's an ex-agent working with the defense lawyer. He tried to talk to me last week about it but I refused to talk. He was yelling that I took Woody's bag into the scenario, but that's crap. It was my bag. And there was no gun in it."

"So how do you explain these?" She tossed the crime scene photos onto the table showing the opened bag displaying the vest with Braswell's name on it and other paraphernalia."

"This is the first I've seen these," Bobu said, his voice getting louder. "This has to be a mistake. These were taken later after they pulled Braswell's bag out his car, right?"

"The ERT says this is the bag that was on the floor of the barracks." Morrissey was acting irritated, but I now realized she was performing. "You're going to be cross-examined about this. Are you saying the ERT agents screwed up? And his ankle holster was in that bag at the scene, so he wasn't wearing it during the scenario. You arrested him and searched him back at the Oakland office. Was he wearing the holster then?"

Bobu sat flabbergasted for moment and then looked over at Mossberg. "George, tell them. I had you get the bag from my car and put it in the barracks. You told me you took care of it."

Mossberg looked untroubled by the question. His answer was calm. Too calm to my eye. Too practiced. "Yeah, but I never told you that Woody was outside. He'd just used the toilet, I guess. When I came out, I looked around for your car and he asked what I was looking for. You'd parked over in the auxiliary lot and hadn't told me that. I explained to him what you had wanted, the SWAT bag to serve as a barricade. He said I could use his. He went to his car and pulled it out. I checked it over and there was no gun in it. I was going to take it over there and he volunteered to do it for me since I had to prepare the cleaning table and ammunition. He could have put his revolver back in the bag after I searched

it, or maybe he just had it in a pocket or waistband. He saw his opportunity to get Jermaine and make it look like an accident.”

Bobu was livid. “What?” he almost screamed. “You never told me any of this. You just said you’d handled it.”

I was livid, too. This story directly contradicted what Mossberg told me when I’d interviewed him. He was lying. There was nothing to contradict this new story and it made Woody look just as guilty as before.

“I did take care of it,” Mossberg replied, still calm. “I just didn’t tell you I let Woody do it with his bag instead of yours. If you’d told me your car was behind the target shed this wouldn’t have happened.”

Morrissey broke in. “You’re sure you searched the bag for guns?” She gave Mossberg a hard stare.

“Of course. I would never let a loaded weapon into a scenario like that.”

Bobu pointed an accusatory finger at Mossberg. “Braswell was in the room while the training video was on. I remember seeing him. I don’t think he ever left the room.”

“He did. You just didn’t notice, or don’t remember.”

“Why am I just now hearing about this?” Morrissey grouched. “None of this is in your 302.”

Mossberg threw up his hands in a gesture meant to convey frustration. “Fitzhugh told me to keep it short. At the time I wrote the 302 I had no idea the SWAT bag was important. Fitzhugh never asked me about it. This is the first I heard that it was part of the defense. Woody never talked to us in the car. Chris told him not to talk. I wasn’t at the scene when the shooting went down. I just heard Woody shot Jermaine. I wrote up what I knew which is the arrest part. There was no ankle holster on him, but the gun could have been in his waistband or a pocket.”

Morrissey grimaced. “Your stories don’t match. He left the classroom, he didn’t leave the classroom. The bag was yours, the bag was his. This is going to be a problem at trial. If this had happened when you guys were on the stand, it would have been a disaster. I don’t care whether the defendant carried the gun into the scenario in the bag, a pocket, or an ankle holster as long as he carried it in knowingly and used it knowingly. I need you guys to talk it over and get your stories straight about that bag. That’s going to be the defense theory, that someone put his bag in the barracks without his knowledge and he pulled out the gun thinking it was part of the scenario, a cleared, unloaded gun.” She looked at her watch. “I have to make a phone call. I’ll be back in a few minutes. You guys figure out what really happened. I need to get this ironed out before trial.”

We watched her leave the room. As soon as she was out the door Bobu exploded at Mossberg.

“What the fuck! You put his bag in the barracks, didn’t you?”

“Take it easy. It doesn’t matter who put it in there. Woody did the deed. You saw him shoot Jermaine with your own eyes. I don’t know about you over in

the city, but everyone in Oakland knew that Jermaine was making a play for Woody's girl. Woody knew it too. I don't know whether the gun was in the bag or his pocket, but it doesn't matter. He brought it in to kill Jermaine because he was jealous."

Sheila rushed into our room at this point, breathless. I'd been riveted on the scene, but I looked around as she opened the door and saw Fitzhugh and Breen both writing notes furiously.

Bobu shot back at Mossberg. "When you said you'd 'managed to get into my car,' that made no sense to me. It was unlocked that day. I told you it was unlocked. Now I know what you meant. You thought Woody's car was mine, didn't you? He's got a white Explorer, too."

"It would have been nice if you'd told me where you'd parked. How was I supposed to know it was out of sight in the other lot? You just said the white Explorer and that it was unlocked."

"You fucking idiot. Did you check the bag to see if there was a gun in it?"

Mossberg didn't answer for a long thirty seconds. He sat, still calm and collected. I could almost see the wheels turning in his head. Then he spoke.

"Chris, you need to calm down and think about this. Woody took that bag into the scenario. Maybe the gun was in it, but I doubt it. I think it was in his pocket. That's what happened. If you or I took the bag in without checking for a gun, and that came out, that would have several effects. First, a murderer would probably walk free. Second, you and I would both lose our jobs, maybe even be prosecuted. You're the Principal Firearms Instructor. You were responsible for the scenario. You should have checked that bag. That's why the gun had to be in his pocket."

"I'm not going to commit perjury. And I'm not letting Woody go to prison for a murder he didn't commit."

"I'm not asking you to commit perjury or let an innocent man be convicted. You just say you asked me to put your SWAT bag in the barracks bedroom. It was supposed to serve as a way for one of the participants to take cover during the exercise. I told you I'd taken care of it. End of story. That's the truth. I can fill in the rest with my testimony. Woody killed Jermaine in a fit of jealousy. He's not an innocent man."

"How'd you get into his car? Slim Jim?"

"Chris, Chris, Chris. I didn't get into his car. Slim Jims don't even work any more. His Explorer is new. He opened his car. He took his SWAT bag into the barracks just like I told the AUSA. I checked the bag for weapons before he took it, so he must have had his gun in his pocket or waistband. The bag was irrelevant. You never saw that part because you were inside running the video. If we both stick to that, no one can contradict it."

I saw an expression cross Bobu's face at that moment that I hadn't seen before. A dawning of realization. He'd finally put together what I'd figured out days earlier.

"An extender! You're on the tech squad. You have one so you can plant bugs."

A power extender is a device car burglars and thieves use these days on new model cars. They work by extending the range of a car's keyless entry. The user can stand next to the car door with the extender and its power boost makes the car's door lock more sensitive. If the owner is nearby, like inside the classroom forty feet away, with the fob in his pocket, the car door detects the response signal from the fob, thinks the fob holder is right next to the door, and unlocks just as neatly as if the owner pressed the unlock button. There are videos on YouTube of thieves caught on security cameras using the devices.

I saw Mossberg's shoulders tense slightly at Bobu's remark. He knew now that Bobu knew for sure how it had happened. Still, he didn't admit anything.

"Damn it, Chris. What's the matter with you? You want to go to jail? An FBI agent in a federal prison. How do think that's going to work out for you? Suppose you're right, and I'm not saying you are. If you're right, then you let your fellow agent die because you screwed up. You never told me where your car was parked. Hypothetically speaking, because of you I opened the wrong car and put the wrong bag into the barracks. I was thinking it was your bag and didn't check it for guns because you had instructed me to put it in, and I relied on you. Had that scenario happened, you never checked the bag before sending agents into the exercise with instructions that there were no loaded weapons there. You did a walkthrough before the exercise and didn't recognize that the bag was the wrong bag. You left it there without checking it or noticing there was a gun there. You used bad judgment in even deciding to put a SWAT bag into the exercise. A SWAT bag. Something that holds weapons. You stupidly tried to use a SWAT bag, for Christ sake, in place of a steamer trunk. You'd be guilty of manslaughter, or even murder; what do they call it, depraved indifference? That's the way it would play out, even though Woody had to know that was a loaded gun. It was his own gun. You don't honestly believe that he thought it was unloaded, do you? Pocket or SWAT bag doesn't matter. He brought the gun in or he found the gun. Either way, he knew what he was doing and killed Jermaine. He had to have known. Don't throw your life away for a killer."

It was an effective speech. I could see Bobu was shaken by it. He was muttering and shaking his head. When I looked up I saw Morrissey make eye contact with Bert and nod. She started toward the door, but Fitzhugh grabbed her arm and stopped her. He whispered something in her ear. She nodded and walked back to the monitor.

Bobu finally spoke again. “I don’t know. Maybe it *was* an accident. It was a little five-shot. It would have felt light compared to his service pistol. Maybe he didn’t realize it was loaded. If you took that bag in ...”

“If I took that bag in – hypothetically – I did it after you checked it over and said it was safe. And I advised against it as an unnecessary distraction, but you insisted.”

Bobu started to rise from the chair, his face twisted in rage. “Hold on. That’s bullshit. You never said anything against it. You thought it was a good idea when we talked about it back at Quantico.”

Mossberg ignored him and kept talking. “You wanted to duplicate the Quantico scenario. You wanted a substitute for the steamer trunk. It’s your word against mine. Hypothetically speaking, of course. But my recollection is that Woody left the training room and offered to take his bag over to the barracks when I couldn’t spot your car. So we don’t have to have my word against yours. Our words can be the same. Especially if you remember that Woody left the training room during the video just a few minutes before you asked me to get the bag. My job is safe. Your job is safe. A murderer gets justice. It’s a win-win-win.”

Fitzhugh said something to Morrissey and they both left the room.

Bobu glared at Mossberg. “Now you’re asking me to commit perjury. And you’re threatening me.”

“Chris, if you don’t remember it, you don’t remember it. If I were you, I’d think about it and remember it. I’m sure Woody left the training room, but if you don’t remember that, just say what you do remember. You told me to put the bag in there, and I told you it was handled. The bag was there and it looked like your bag. You didn’t know it was Woody’s. End of story. I can fill in the rest.”

Fitzhugh stepped into the video scene with Morrissey. I watched as he told Bobu he needed to talk to him. He told Mossberg that it didn’t involve him, but to hang around in the AUSA’s office until he could explain to him what was going on. Mossberg left with Sheila Morrissey. Fitzhugh sat down at the table with Bobu.

“Chris, I’ve been talking to the AUSA. We’ve got a problem with the defense. They’re saying Woody found the gun in the SWAT bag that was in the scenario. That he didn’t realize it was a loaded gun.” He paused, waiting for Bobu to respond.

“Yeah, she was telling us the same thing,” was all he said in reply. He was having trouble maintaining eye contact with the SAC.

“Maybe I didn’t do a very thorough job of investigating. I should have nailed this down when I interviewed you and the others. I have to ask you now, do you know how Braswell’s bag got into that barracks?”

Bobu paused before answering. He wrung his hands and stammered, “Boss, I just told George to get the SWAT bag from my car and put it in the

barracks bedroom. My car was unlocked. We went through this scenario back at Quantico and they had a big steamer trunk that ...”

“I don’t need to know all that. I’m just asking you if you know how that bag got into the exercise.”

“You should ask George.”

“I’m asking you. Did you or Mossberg put that bag in there?”

“I didn’t. I thought George did. My bag didn’t have any guns in it. Just my Kevlar vest, ninja suit, boots, and flexcuffs. I don’t know how Woody’s bag ended up in there.”

“Quit waffling. Woody’s on trial for first-degree murder. Is there any possibility he’s telling the truth? That he found the gun in the bag by accident and thought it was unloaded?”

Bobu’s lower lip began to tremble. The word was almost inaudible when he finally said it. “Yes. I guess it’s possible.” He wiped his nose on his sleeve, as it had begun to run. “I’m sorry, boss. I didn’t know. Not until today. I thought that was my bag that Mossberg had put in there. Nobody told me that was Woody’s bag in there. I saw Woody duck down and I assumed ...”

“Stop. Come with me.” Fitzhugh stood and led Bobu from the room. Thirty seconds later the door to our room opened and the two men entered. Bobu’s eyes got wide when he saw the monitor. “Wait here,” Fitzhugh ordered, then left the room.

I didn’t like this at all. It was just Bert, Bobu, and me. Bobu was the only one armed here. At least I assumed he was armed. I hadn’t seen Fitzhugh take his gun. It could have happened in the hallway en route to this room, but I doubted it. Bert was small and no fighter. Fitzhugh was gone, but even if he’d been there, he was even smaller and in terrible shape. He couldn’t go two rounds with Rosie O’Donnell. Fitzhugh should have gotten someone else to help, someone armed, like a deputy marshal, but good judgment wasn’t part of his skill set. He was an SAC, after all.

If Bobu thought his career was over, who knows what he would do. He looked right at me, but I couldn’t tell what he was thinking. My split lip was still evident. I’m sure our fight was still in his mind. I was the man who brought him to this point. I watched his hands. They hung loosely at his sides. Then he sniffled again and raised one hand to wipe his nose. Without thinking I reached into my suit pocket, pulled out a crumpled tissue, and handed it to him. He took it.

“Thanks.” He blew his nose and took a long while folding the tissue before putting it in his pocket. “Cliff, I’m sorry. I didn’t believe you. I should have listened, but it made no sense. I was sure that was my SWAT bag.”

“I know that now. It’s okay.”

He held out his hand to shake. We shook. The door opened and Fitzhugh entered with Mossberg and Morrissey. Mossberg seemed confused for a moment when he saw us standing there. Then he spotted the computer monitor, still

showing the view of the empty conference room where he'd been sitting minutes before. The blood drained from his face. Fitzhugh was standing directly to Mossberg's right.

"Chris, you want to help me here?" he called. Bobu stepped up to Mossberg's left as Fitzhugh continued, "George, I'm going to need your badge, creds, gun, and car keys."

Mossberg started to object, but then reached into his jacket for his credentials and handed them over. Then he unbuckled his belt to slide his holster off. Bobu watched Mossberg's hands as he did so. The gun and holster came off with no trouble and then came the car keys.

"The ID badge, too." FBI employees have an electronic security key card for the doors. Mossberg handed that to the SAC. Then Fitzhugh barked, "Chris, search him for any other weapons or Bureau property."

"Now wait a minute," Mossberg objected. "Trey, just let me explain." He held up one hand between him and Bobu. Bobu grabbed the forearm but Mossberg resisted.

"Cliff, feel free to help out here," Bobu said to me, still keeping eye contact with Mossberg. I stepped forward. At this Mossberg relaxed his arms and assumed a cooperative position. Bobu searched him thoroughly, checking for an ankle holster, waistband gun, or any other weapons. He pulled out Mossberg's wallet and rifled through it. There were some FBI Special Agent business cards in it. He took those out and put them on the table. I was hoping he'd find a power extender, but there was nothing else.

Fitzhugh spoke again. "George, I'm going to give you one chance to resign. Otherwise, you're going to be fired and never be able to work again. You have ten seconds. One, ..."

"Boss, wait, please, just listen. Braswell's guilty. This is just a misunderstanding. My pension ..."

"... eight, nine, ..."

"Okay, okay. I resign."

"Chris, escort him downstairs. Cliff, if you would be so good as to give him a hand. Then please come back up."

I didn't have to take orders from Fitzhugh, of course, but I was happy to do so in this case.

"Before you go," Morrissey intoned to Mossberg, "you need a lawyer. Get yourself someone and have him or her contact me. It's better for everyone if we can work out a disposition before I have to file anything. I'll give you a week. If I don't hear anything before then, expect a perp walk."

Bobu and I walked Mossberg down to the lobby. He turned to Chris and gave him a haughty sneer. "Et tu, Brute?" he said.

I didn't think Bobu was enough of a Latin scholar or Shakespeare fan to catch the reference, and he made no reply.

"So how am I supposed to get home?" Mossberg complained.

"There's a BART station four blocks that way," I answered. "Don't try to walk to the one by Laney College." Bobu and I went back into the federal building. I don't know where Mossberg went after that.

Back up in the U.S. Attorney's office Bert and Fitzhugh had migrated to Sheila's office. We joined them.

As soon as I walked in, Bert said, "I called Louise and told her to get over to the prison and let Woody know that charges will be dropped. The judge has to order his release. Sheila's already gotten it on the judge's calendar for tomorrow."

I looked over to Morrissey and she nodded her agreement. "What time?" I said. "I want to be there."

"Nine thirty. The judge has asked us not to make any announcements to the press before then, other than to say there will be an important hearing. He wants to be the first to announce the release and issue a formal apology to the defendant."

"I'm coming, too," Fitzhugh said. "I'm the one who authorized the arrest. I probably should have investigated more before doing it. I should have gotten AUSA approval first." He looked over to Morrissey who was nodding vigorously. "But I didn't see ... I mean, Watkins told me Woody stuck his gun in Logan's gut, called him a cocksucker, told him to die, then shot him dead. Garcia heard it too. Chris, you even told me you saw him duck down and pull his gun from an ankle holster. I mean, what was I to think?"

"That's what I thought I saw," Bobu replied.

Fitzhugh turned to me. "Cliff, how'd you figure it out? Half the witnesses didn't even talk to you. I know because they told me they were dodging you."

I looked over at Bobu, who colored at the comment. "And the most cooperative one, Mossberg, told me a pack of lies. It was the fingerprint gloves that brought it together for me."

"The fingerprint gloves? What are you talking about?"

I told him about my conversation with Rory Zimmer. "When I heard about Mossberg's reluctance to wear the fingerprint print gloves and his insistence on being the one to drive Woody's SUV back to Oakland, even though there was an ERT agent already scheduled to return it to San Francisco, I knew something was wrong. Then it hit me. If Woody was telling the truth, and I had to assume he was, then someone had to have opened his car to get his SWAT bag. There was only one person there with the ability to do that without the key. Before then, I had thought maybe Dawson could have brought the keys up from San Jose, but that didn't make sense. There was no motive and really, no opportunity. He would have had to leave the video screening and do it while Mossberg was out there setting up the cleaning table. But Mossberg was on the tech squad. The penny dropped and I realized he could get into any car. He does that regularly in order to plant bugs. I knew he'd been to that same Quantico

exercise with Chris, too, and I was pretty sure that was the real reason for the SWAT bag. Chris was having George do all the setup, so it only made sense that he'd asked him to put the bag in the barracks."

"I still don't see how you'd make that leap. What does that have to do with the gloves? What was the motive? Why would you think he'd go into Woody's car for that instead of Chris's or his own?"

"It was really my assistant, Maeva, who made the key observations that allowed me to make the connection. She saw a white Explorer on the MythBusters film and thought it was Woody's because she wasn't familiar with the physical layout. She knew Woody had a white Explorer and there was one sitting in the lot, so she told me about it. Then later, when she saw Chris at the bar, ..."

"At the bar?" Fitzhugh looked to Bobu, who was blushing an even brighter red than before and looking at me for mercy.

"Yeah, we did a little surveillance operation on Chris," I said, avoiding the whole Huntress story. "Anyway, Maeva saw Chris in a bar parking lot and realized that he had a white Explorer, too. She pointed it out to me. I didn't realize the significance at first, but it nagged at me. It wasn't until I talked to Zimmer that it made sense. If Chris had asked George to place the bag in the barracks, and George had come out to get the bag from the car, he wouldn't have seen Chris's Explorer. It was in the auxiliary lot, blocked by the target shed. He would have seen Woody's, which looked identical. They were the same year and same color. It was locked, so he must have assumed Chris forgot that he'd locked it. Rather than go back inside and interrupt Chris in the middle of the video, he just grabbed his extender and used it. So he would have opened Woody's car, thinking it was yours, Chris, and popped the rear gate using the release button inside. He probably climbed in and sat in the driver's seat, too, leaving his fingerprints in various other places inside. Later, back at Oakland, he must have figured out what happened."

"But how?" Morrissey asked.

"From Zimmer. When Zimmer told him that the ERT had bagged Woody's gun and SWAT bag as evidence and searched Woody's Explorer, the light bulb must have gone off that he'd put the wrong bag in the barracks. George would have realized at that point that he must have entered Woody's car. He knew he hadn't searched that bag because he thought it was yours. Maybe he thought Woody was really guilty, and maybe he didn't, but he knew he was going to be in big trouble himself if it came out that he'd put that bag in the barracks with a gun in it. He knew his fingerprints would be on the trunk release, inside the rear compartment, maybe the steering wheel, or wherever. He probably didn't know what he'd touched. He had to find a way to explain those prints if the car ever got dusted."

Fitzhugh looked at me impatiently. "But I still don't understand. What does this have to do with the fingerprint gloves? Why didn't he just wipe his prints off when he had the chance?"

"He couldn't, for several reasons. First of all, the car was there in the custody of the ERT. He couldn't very well go out there and start wiping it down right in front of them. He had to get control of the car. Second, once he did have it in his control, he couldn't wipe it down because he probably didn't remember exactly what he'd touched. He would have had to wipe everything and that would have been obvious when the ERT dusted it later. They'd know someone had tried to conceal their prints after Woody was already in custody. The only solution was to get the car in such a way that it would look normal to have his prints appear on the trunk release and inside the trunk. That's why he agreed to talk to me. He wanted to be sure to feed me that story about the SAC asking him to drive Woody's car to Oakland and him searching the back for weapons."

I addressed Fitzhugh. "He told Zimmer that you had decided to have Woody's car taken to Oakland instead of San Francisco. I knew that wasn't normal. Any vehicle in evidence is taken to the evidence warehouse. But he only told Zimmer that you'd ordered him to get the car *after* Zimmer had told him about the bag in the barracks being Woody's. He'd had to come up with a plan quick when he realized what he'd done."

Fitzhugh shook his head. "I never authorized that. I didn't even know the car was taken to Oakland."

"Of course. But in this case, it did make some sense. It wasn't believed to be evidence at that point, just another Bureau car and it could be kept in a Bureau garage. Besides, the fingerprint examiner works in Oakland, not San Francisco. But by the time Zimmer told me that, I already knew about the gloves and had figured it out. Mossberg had cadged a ride with Zimmer because he had to get back and drive Woody's car. He made a show of not wanting to wear the gloves so that it would stick in the minds of the ERT. Later, when his prints showed up, he could just say that he didn't wear them or he took off the gloves because he was allergic to latex, or whatever, and had searched the rear of the vehicle for weapons, thus explaining why his prints were back there, too, just like he told me. He needed his excuse for the presence of his prints, and he got it."

It was Morrissey's turn. "Okay, so it makes sense now we know the truth. Why wasn't this discovered immediately after the shooting?"

"I'd call it a comedy of errors, except it wasn't funny. You have to think about it minute by minute from the point of view of every person involved. The shooting itself – well, I've explained how that happened. Mossberg was just trying to follow Chris's instructions. He thought Woody's car was Chris's and placed the SWAT bag in the barracks. He didn't intend anything bad; he thought he'd put the right bag in there. Woody thought the bag was a prop and the gun was unloaded, so bang! Jermaine's dead.

“At that point there was confusion. Woody kept saying it was an accident, but he didn’t explain what he meant by that. He didn’t say anything about the bag. Chris had seen him duck down and come up with a gun, but he assumed at first it was his service pistol, and later that he’d pulled the revolver from an ankle holster. He had no idea the bag in the room was Woody’s. Afterward, he told Woody not to talk, which is another reason no one thought to examine the bag. If Woody had just said that someone put that gun in the bag it probably would have been straightened out on the scene. Chris would have told the SAC that George put the bag there and Trey would have gone over to the range and questioned George before George knew what was going on. He would have had no reason to lie at that point. He would have said he put Chris’s bag in there when asked. Because Chris told Woody not to talk, this didn’t happen.”

Bobu broke in, “I thought I was helping him. I didn’t want him to blurt out something that would hurt him later.”

“I know that. It was good advice. Every agent knows how subjects usually end up hurting themselves by talking. There’s nothing wrong with waiting to get legal representation when in a tight spot. But if Trey had just interviewed Woody first, Woody would have told him about the gun in the bag. You always interview the subject before arresting him if you can. That’s like day three at New Agents’ Training or something.”

Fitzhugh gave me another hard stare but said nothing.

“Anyway, Woody was isolated, kept away from the scene, and not talking. All the other agents were busy trying to administer first aid or call 911 or get the SAC. Once Jermaine was carried out, they all left the scene undisturbed so that the Evidence Recovery Team could do the photos and search. The ERT figured out that the bag was Woody’s and therefore important, but nobody told any of the eyewitness agents about that. The agents in the scenario all assumed that the gun was carried in a pocket or ankle holster, so none of them mentioned the bag to the SAC, who was doing the investigation.

“The only one who figured it out was Mossberg. When he realized back in the Oakland R.A. that he’d carried the wrong bag into the barracks, he must have known what happened, or at least that there was a real chance his action was responsible for the shooting. But he also knew about the rivalry between Woody and Jermaine since he worked in the same office with Jermaine. He probably convinced himself that it wasn’t his fault, that the bag was irrelevant because Woody must have knowingly killed Jermaine, even if it was only a crime of opportunity when he found the gun in the bag. But George also knew that if it had been discovered that he had brought a loaded gun into the scenario, he would probably be fired. He had a recent letter of censure and demotion for a prank that looked racist. Another incident like this that led to an agent death, a black one no less, he was toast. So he stayed quiet about the bag, hoping no one would put it together. He was relying heavily on the fact Woody’s car was locked and no one

else had keys, but he had to deal with the fingerprint problem in case the car got dusted.”

I looked over at Fitzhugh. “A good investigator would have noticed the ERT reports on the bag being Woody’s and questioned everyone thoroughly and separately about how it got in there. The answers from Chris and George wouldn’t have matched and it would have come out.”

Fitzhugh glared again and started to respond, but he knew he’d just sound defensive.

Bobu couldn’t resist the urge, though. “No one ever told me that was Woody’s bag in the room. Not until you did last week. I didn’t believe you. I mean, I knew I’d left my car unlocked and the bag looked just like mine. You were on the defense side, Cliff. I thought it was all bullshit. If I’d just been shown the crime scene photos with Woody’s stuff in the bag, I would have known something was screwy. I would have said something.”

All eyes turned to Fitzhugh again. He snapped back at Bobu. “You must have seen that your bag was still in your car when you returned to Santa Rita to pick it up. Why didn’t you say something then?”

Bobu shot back huffily, “George told me that he’d gotten it back from the ERT people and returned it to my car. I didn’t know a SWAT bag had been taken into evidence.” Bobu looked at Fitzhugh. “You were the only one with access to the evidence logs and 302s of the ERT. I assumed that the bag in the barracks was mine and determined to be irrelevant just like George said. I didn’t have any reason to doubt him.”

Morrissey watched the exchange with increasing impatience. “This puts us in a terrible position. We’re going to have to explain why charges are being dismissed. It’s especially bad that it was a black man and we’re under fire for racial discrimination. Alleged discrimination, I mean. The FBI put us in this position by jumping the gun on the arrest. We should never file charges on a case we can’t prove.”

“You should never file a case on an innocent man,” Bert corrected.

“I’m not so sure he’s innocent,” Sheila retorted. “I agree we can’t prove the case. Maybe it happened exactly like Braswell said and he didn’t know the gun was loaded. But how do we know? I still find it hard to believe he didn’t realize that gun was loaded. He was jealous of Logan, after all. At the very least, he should have known the gun was loaded. He should have checked the cylinder. It’s a revolver, for God’s sake, not a pistol. You can see the damn bullets without opening it up. Mossberg could be right. Maybe Braswell saw his chance and took it. At the least, I might be able to prove negligent homicide.”

Bert and I exchanged glances. “Are you going to refile?” Bert asked sharply.

“After this? There’s no way I could get authorization. The sooner we can sweep this one under the rug, the better.”

“You’re going to give my client his job back, aren’t you?” Bert said to Fitzhugh.

“I don’t have that authority. FBIHQ made the decision to terminate based on the reports. I doubt they’ll reverse it. It takes the personal approval of the Director to fire an agent. If nothing else, they’ll take the same view Sheila just stated. He should never have shot Logan, intentionally or by accident.”

Bert put on his best outraged attorney act, “I’ll file a wrongful termination suit. False arrest, too. I’ll make the FBI look like idiots and racists.”

Fitzhugh looked undisturbed. “So file. He’ll probably get a nice settlement to go away quietly. I’m already going to look like a fool after this, regardless, so there’s nothing you can do to me.”

Morrissey turned to me. “Cliff, I want to thank you. Without you, we might’ve prosecuted an innocent man for murder. As I said, I’m not sure he’s entirely innocent, but I never want to prosecute someone I believe could be totally innocent. I’ll take whatever lumps I have to take. I didn’t believe you when we started today. In fact, when Mossberg told me he let Woody put his bag in the barracks, I thought he was telling the truth. I thought we had just nailed him and shot down his defense. It wasn’t until I watched on the hidden camera that I realized your theory could be true. I’d never heard of a power extender. You have no idea how hard it was to get permission from my boss to set this up – this video remote. He only agreed because he thought like I did that we’d get to preview your cross-examination and shoot down your whole defense before trial. Instead, it showed you were right.”

“Bert gets the credit for the hidden camera and mike idea,” I said. “I never would have thought you’d allow it. Not here in an attorney’s office.”

Bert nodded at the compliment and stood up. “I think our work is done here. I have to prepare for tomorrow’s hearing. Cliff, shall we go?”

I nodded. We shook hands all around and Bert and I left. On the way out he told me his threat wasn’t empty. He intended to file a false arrest and wrongful termination suit if Woody didn’t get his job back. He agreed with Fitzhugh that DOJ would fold quickly and cough up a big settlement. He pointed out that my expenses would be part of the damages sought. He asked me to send him a big fat invoice and not to stint. He asked me to bill at my full rate. The invoice would make a nice trial exhibit.

*There are only two mistakes one can make along the road to truth;
not going all the way, and not starting.
Buddha*

Chapter 22

I drove directly home. I wanted Ellen to be the first to know the good news. She was ebullient when I told her, repeatedly exclaiming that she knew Woody was innocent alternating with statements that she never had any doubt I would prove it. She wrapped her arms around me so tightly I could barely breathe. I was a heavyweight wrestler in high school, and I'd had opponents who couldn't squeeze that hard.

I began notifying others about Woody's impending release. First Maeva, then Gina, Woody's supervisor, and Rick Porillo, the Agent's Association rep. I thought about calling Connie Jefferson, too, but decided I'd leave that up to Bert and Woody. I knew the word would spread like wildfire through the office and hit the news cycle within minutes. The judge may be pissed at Sheila for jumping the gun, but his order didn't apply directly to me. I didn't want Bert to get in trouble with the judge, though, so I told everyone to keep my name out of it if they told anyone.

Ten minutes after finishing my last call, I checked Twitter for the hashtag on Woody's case and already there were five tweets on it and those had been retweeted dozens of times. No one mentioned me, so I relaxed on that score.

When I went into the office later, I had Maeva help me total my hours and expenses and submitted the bill to Bert as he requested. She can't match Ellen in size or power, but she gave me a pretty good hug, too. I was feeling good about the whole thing.

* * *

The next day it was bedlam in the halls outside the courtroom. When court convened, the judge gave a rather pompous speech about what justice meant and how he'd dedicated his life and whatever. I stopped listening pretty quickly.

Then Woody was marched out in the same suit and tie he'd worn in that initial appearance, one female deputy marshal by his side. Woody wasn't handcuffed. I realized this was meant as a show that everyone recognized he wasn't a murderer or dangerous felon of any kind, that they were just going through the ceremony required by law to set him free. The judge then asked the prosecution if it had a motion to make. Morrissey stood up and made a somewhat pompous speech herself, emphasizing how her office is always seeking truth and justice, not just convictions and when new evidence comes to light – she never used the word “mistake” – that she was the first to make sure any charges not

supported by the evidence are dropped. Eventually she stated that the government now believed it could not prove beyond a reasonable doubt that the defendant was guilty of murder and requested all charges against him be dismissed with prejudice. She apologized for filing charges before a thorough investigation had been done and stated that the U.S. Attorney's office now believed the shooting was simply a tragic accident.

The judge turned to Bert who proceeded to lambaste the government for its obviously racially motivated false arrest and cover-up of its shoddy investigation. He stated that he was demanding his client be returned to his position as an FBI Special Agent and made whole, and that if he wasn't, then there would be a lawsuit to end all lawsuits. The judge sat patiently through the rant and then asked if the defense had any objection to the motion by the prosecution. Bert finally said no.

The judge then began an extensive and florid apology to Woody on behalf of America, motherhood, and apple pie for the grave injustice, blah, blah, blah. I'd tuned out again before I realized the motion was granted and Woody was free. The courtroom erupted in applause. The judge asked Woody if he wanted to make a statement.

Woody was choked with emotion and had trouble speaking. The first words out of his mouth were an apology to Jermaine's parents, friends, and co-workers. He said he would never forgive himself for not being more careful and for not realizing the gun was loaded. He praised Jermaine as a fine agent and friend. Then he thanked his entire defense team. He named Bert and Louise, who were both at the defense table, then asked me to come down and join them. I'd been sitting near the back of the gallery. I hadn't expected this and was flummoxed for a few seconds. The judge scowled a bit since he was the only one with the authority to invite someone before the bar, but he didn't say anything. When I got up there, Woody gave me yet another big hug and shook my hand. I could hear the reporters buzzing in the background. This was the first I'd been publicly associated with the case.

The judge then thanked Woody for the inspiring speech and congratulated the defense and prosecution both for seeing that justice was done. He made a gesture to the bailiff who stepped forward and gently ushered us toward the back. It was our cue to scam. We filed out. As we did, I noticed that we'd seen no sign of Connie Jefferson. Woody, however, was walking next to Louise and laughing at whatever she said. They seemed to be getting along famously. Woody was quite the handsome stud who could get a prettier girl in a heartbeat, but I didn't think he could find a better one.

In the hallway Trey Fitzhugh stopped Woody and apologized on behalf of the FBI and himself. Reporters and other spectators were snapping pictures like crazy. Woody was gracious in accepting the apology.

I congratulated him on his release, told him to thank Bert for all his fine work, and thanked him again for including me in his compliments to the defense team in court. We agreed to stay in touch and I went on my way.

Some reporters tried to get comment from me on my way out, but I stayed mum. I was a peripheral player and no one pursued me very hard. Woody and Bert were the main targets of the paparazzi.

I made my way back to the office and hunkered down to my normal work. I was way behind and no longer had any excuse for putting it off. Later that day the law firm that had dropped me over the delay in the insurance fraud investigation called me to apologize. They had heard the news reports and said they realized that I was proving a murder suspect to be wrongly prosecuted. The partner there who usually sent me work was a textbook bleeding-heart liberal and financial contributor to the Innocence Project. My motivations had been entirely personal, based on family and professional loyalties, not political ideology. He said he'd be throwing more business my way. I thanked him without getting into the politics.

The first day I walked into prison, I knew the magnitude of the decision that I made, and what I allowed to happen to the animals.

Michael Vick

Chapter 23

On Friday Maeva came into my office and told me the Oakland dogfight she'd found in the deep web was taking place the next day and she had the address and time. I asked her where she'd gotten the money for the ticket and she just winked and said not to worry about it. I took the information and sent it to Bert with a request that he notify the Animal Control people. I questioned her to make sure she wasn't planning on going.

"No chance," she replied. "After I paid my money they asked me what the name of my dog was. The message said I was not allowed unless I had a registered dog or was accompanying someone who did. I made up a dog name, but the reply said they didn't have that dog on the registry and I couldn't enter him until they'd verified he was a valid fighting pit bull. I asked how to do that, and he said to send him the dog's pedigree. I told him I'd do that, but of course, I can't. This must be their process for vetting the attendees. You either have to be an owner of a vetted fighting pit bull, or be brought in as a bettor by someone who is. I guess they can check you with all the breeders. It's a tight crowd."

"Good. I don't want you anywhere near there. Bert convinced me it's too dangerous for me, and I know it's too dangerous for you. He's sending the police."

"Don't worry. I'm not going. But look at this. The address is around the corner from the Leung woman. Look on Google Earth. That address is just the side property to her lot. I think it's a vacant lot, but I bet she's using it to disguise the real location. If there's a hole in the fence or maybe a gate, you could just walk right into her backyard from there. She's hosting the fights!"

This was great news. I sent another email to Bert, then remembered to copy Hiram Twomey, the lawyer the insurance company gave me. If they could prove Leung was breeding the dogs to be killed in fights they could probably get her lawsuit dismissed. Certainly no jury was going to find for her.

Saturday morning I was eating breakfast and listening to the morning news when I heard that riots had broken out in Oakland. Ironically, demonstrators were surrounding the federal building and holding up signs saying the FBI and U.S. Attorney were racists because of the wrongful murder charge against Woody. Vandalism and looting had begun and the reporter was saying that every available officer and sheriff's deputy had been called in for crowd control and protection of personnel and property.

Any riot is bad enough, but I realized that Deputy Schmidt and any other deputy from Animal Control would probably not be able to raid the dogfight. If they were on duty they'd be called to the riots.

I decided to drive out to the dogfight to see if I could snap a picture of Leung allowing people into her property, or at least get a shot or two of some sleazy types with vicious dogs entering. I knew that I wouldn't be admitted in, and I didn't want to be, but some photos could be useful. The fight was starting in a little over an hour. I'd just have time to get there. I apologized to Ellen for leaving her alone with Tommy on a Saturday once again, and she wasn't happy about it. I told her I'd be back in a couple of hours.

When I arrived in the area, I pulled up to the side street where the address to the fight was. As Maeva had predicted from the photo, it was a vacant lot. There were two tough-looking Chinese men standing on the sidewalk. One of them had a pit bull on a leash. They appeared to be talking casually. Soon another man showed up, Hispanic this time, with a dog in a carrier. The dog on the sidewalk started barking and growling furiously, which set off the dog in the carrier. One of the Chinese men pulled out a piece of paper and spoke to the new arrival. After a moment he nodded and held out his hand. The arriving man handed over a cell phone. Apparently video devices weren't being allowed in. He then was directed to the back of the lot, where I could see he opened a gate and entered Leung's property.

This was great stuff. I'd managed to video this from my car without the Chinese men noticing. I wanted to get a picture of Leung herself, though. I knew I couldn't stay in the same spot for long, though. For one thing, I'd pulled over in a red zone next to a fire hydrant. I drove around the block, partly to prevent them from noticing me, but also to find a more permanent spot to park. As I came around onto the same block my jaw dropped. I noticed a very familiar car – Maeva's. What was she doing here? She must have heard the same radio report about the riot and decided to help me out by going undercover on her own.

No sooner had I spotted the car than I saw her on the sidewalk a few cars away, talking to a man who was carrying another pit bull. He was a skinny white guy about six two. As I drove by I could see he was covered with tattoos and had the hollow-eyed look of a drug abuser. Maeva was dressed in that same slutty outfit she'd demonstrated to me earlier. It was then that I realized what she was trying to do.

She couldn't get in on her own, but she'd decided to tramp herself up in order to wangle an invitation from one of the attendees. She had no doubt figured they would be the sort who would be attracted to that look. She had to be doing this to help me. I would never have permitted her to do it if I'd known. Now I was in a dilemma. Should I rush over there and try to force her out? Before I could make a decision, I saw the man nod to her and give her a leering smile. Immediately the two of them walked up to the Chinese men who were obviously the doormen and bouncers. Maeva looked up as the Chinese goons were talking to Mr. Tattoos and she spotted me driving by. She scowled at me and gave a very curt shake to her head. Clearly she didn't want me to interfere.

By the time I could turn the car around to get another look she was out of sight. Great. Now she was in there. Should I call 911? There was no emergency yet and I knew the riots were going on downtown. I had the news station on the radio and it was worse now than when I'd left home. I decided to wait. Maybe the Animal Control people would show up and raid the place.

I circled the block two more times before someone pulled out and let me take a parking space where I could see the bouncers and sidewalk. The sound of snarling, barking dogs was louder now. Apparently the "contestants" were growing in number and sizing up their opponents.

I pulled out my long lens SLR to get better shots. I used to rent a special van for this sort of work that had hidden cameras in the roof vent, but I haven't been doing this kind of investigation in the last couple of years. I hadn't had time this morning, either. So I had to be discreet when I lifted the long lens up, but I'd had enough practice that I was able to keep anyone from noticing.

After twenty minutes, it looked like everybody who was going to arrive had done so. The doormen disappeared into the back, apparently joining the action. I got out of the car and strolled by the vacant lot. The gate was closed. I could hear the barking and snarling on the far side of the fence, but from the sound of it, I didn't think the dogs were actually fighting yet.

I did not like this at all. Maeva was in there. I knew she was anxious to prove herself as a private investigator, to demonstrate she was able to handle herself, but in reality she didn't have the training or experience for this. She also wasn't an objective witness. Even if she saw something valuable to my case, her testimony wouldn't be very convincing since she worked for me. A judge or jury would assume she would say whatever I wanted her to. Bert had already made this point to me. I had even mentioned it to her at one point. When I remembered that, it struck me what she must be doing. She must have taken a hidden camera in there to get undisputed proof! The gorge rose in my throat at the thought. If she got caught ...

I returned to my car and put the camera away. I hadn't had a chance to outfit the car the way I should have, since it was a short-term rental, but I dug around in the trunk for something I could use as a weapon if I needed one. The car had one of those miniature temporary spares buried deep under the trunk panels. At least it had a lug wrench. I didn't see anything better, so I took that out and slipped it up my sleeve so that it wouldn't be visible as I walked along. It was no longer than my forearm, so it really wasn't noticeable. I returned to the vacant lot and looked around. The noise inside had increased, this time from human voices. There was yelling and cursing in several languages. The dog fights must have started. The bouncers were gone, inside, presumably.

I needed to get a better look. Next to the vacant lot on one side was a bar in a shabby building with a flat roof. It was closed. That was probably why this time was chosen for the fight. Leung knew there would be no one to complain about the noise or report the fights. If I could just find a way to get on the roof I'd

be able to see down into Leung's back yard. I walked around to the far side of that building and saw a dumpster against the wall. That would give me some elevation, but it wasn't enough. I looked around some more and spotted a rack of three newspaper boxes on the corner. I walked down there and examined them. They were all chained to a lamppost. Two of them were empty, long abandoned. The only one with papers in it had the free tabloid with all the out-call massage ads on the back. This wasn't exactly a Wall Street Journal neighborhood.

I waited until no one was on the street and, using the lug wrench, pried the box part of one of the empties from the metal stand. I returned to the bar and placed the box on top of the closed dumpster. It was a precarious perch, but it was the best I could do. I got up on the dumpster and tossed the lug wrench up onto the roof. Then I mounted the newspaper box, which gave me just enough altitude to reach the edge of the roof if I jumped.

As I made the leap, the newspaper box went clattering to the ground. I did a pull-up and managed to get myself up high enough to get an elbow over the roof edge. I swung my leg up and caught it on a drainpipe and by sheer force of will and arm strength. I rolled and pulled my body up enough to get my upper body onto the roof. I heaved a big breath and looked back down to see if anyone had heard the box tumble or seen me. So far as I could tell, no one had. The noise from Leung's yard was so loud, no one on that side of the fence would have noticed.

I lay flat for a minute to catch my breath. Then I looked around and picked up the lug wrench. The roof was the tar-and-gravel type. It crunched under foot as I half-stood. I didn't want to stand up straight since I thought someone with the fights might see me. So I crawled to the far edge of the roof on my hands and knees, both of which got chewed up from the gravel. These pants were going to be yet another casualty of this case, but at least jeans were cheap. My hands didn't much like the treatment, either. The gravel was sharp. Pinpricks of blood appeared on my palms as I made my way across.

At the far edge I lay flat and lifted my head just enough to see over. I could see a large cage built against the wooden fence, made from metal bars and chain link fencing. It was too large for a single dog. The cage was about eight feet high, with no roof. There was a door to the yard. Inside the cage a white man was pulling out a bloody animal by its collar. I'd say it was a dog, which it must have been, but it was so mauled and bloody that I actually couldn't tell what it was. It might have been dead. If it wasn't, it was soon going to be. The man was dragging it like it was a sack of cement. I saw Mrs. Leung in the yard doling out bills to one of the men there. Behind him was a short line of other men, and one woman. They must have been bettors collecting their winnings. So Leung was running book as well as breeding dogs for the fight. I looked around for Maeva but didn't see her.

After Leung had paid off those people she said something in Chinese to the goon with the dog. He then tapped two other men on the shoulder and

motioned toward the cage. They each brought their dog carriers into the cage, but didn't open them. The goon began to recite the pedigree and fight history of the first dog. He nodded and the owner took the dog out of his carrier. It immediately began barking and lunging at the other dog, still in its carrier. Excited murmurs ran through the crowd. That dog was then forced back into its carrier by the owner, which turned out to be no easy feat. The next dog was then let out and the process repeated.

The dog owners stayed in the cage while people crowded around Leung. She was pocketing wads of bills and making notes with considerable speed and dexterity. I gathered she had done this many times and was well-practiced. Then I saw Maeva for the first time. She was emerging from a porta-potty in the corner of the yard. It was one of those types with open spaces between the walls and ceiling for ventilation. I guessed she had taken advantage of that feature to hold a camera up into the opening and video the proceedings. When she came out she was straightening her postage stamp of a skirt like she had just done her business.

When Leung was finished taking bets she gave the word to the goon again and he signaled the fight was to begin. Both dog owners brought their dogs out and the cage door was closed. They moved to opposite sides of the door and put their carriers down on the ground. For the first time I realized there were some other structures on the cage walls. The goon opened up some wire panels in the sides of the cage and stepped back. Now I could tell that there were two special openings in the cage to let the dogs in. On his signal both owners lifted the doors to their carriers and the dogs sprung out into the bigger cage through the openings. The goon then closed both of those cage openings so the dogs couldn't retreat into their carriers.

There didn't seem to be any danger of that since both dogs went tearing for each other hell-bent for blood. The fighting was fierce and the carnage stomach-turning to watch. I kept looking over at Maeva. She had adopted a steely expression, but I could tell she was having a hard time holding her anger in check. She was an animal lover. It was over; not quickly enough, but at least it was over. One dog lay dead. The owner of the victorious animal got him back into his carrier through the opening and then walked over to Leung. She began peeling off bills for him. My vision isn't all that good. I used to have thick glasses. After I retired I had laser surgery that largely corrected my vision, freeing me from glasses, but it still wasn't that sharp, especially at a distance. I was trying to see the denomination of the bills, but I couldn't be sure. I thought they were hundreds. If so, the winner must have pocketed over two grand. After he got his cut, the owner of the dead dog got something, maybe five hundred, and slunk away, defeated. Then Leung began paying off the bettors.

I'd come full circle. I'd seen enough. It was time for 911. I didn't know if they'd respond with the riots going on, but I couldn't let this go on. I began to crawl away from the edge to put enough distance between us so that no one would hear me make the call. My knees and palms took more punishment as I

inched back on the sharp gravel. I was back to the edge over the dumpster when I heard a different sound from the crowd. It was more of an angry commotion than the excited sounds of cheering spectators. I heard a short screech in a woman's voice. There were a few other women there, but I knew instantly that was Maeva's voice.

I didn't bother to crawl this time. I stood up and ran to the edge of the roof. Two men were holding Maeva's arms. She was struggling. They must have caught her taking pictures. The goon with the dog opened the door to the cage and yelled at the ones holding Maeva to throw her in. There were yells of "nark" and "bitch" coming from the others. Everyone was so focused on her that no one noticed me, even though I was now standing up tall looking down on them from the bar roof.

Maeva landed roughly on the floor of the cage and the goon released his dog into the cage a second later. As he slammed the door of the cage, I leapt down off the roof into the cage, lug wrench in hand. The pain of an ankle sprain shot up my leg as I landed, even though I'd tried to roll to take the force. The dog had already leaped at Maeva and latched onto her forearm. She was screaming in pain. The weight of the dog, which I estimate at fifty pounds, had her bent over at the waist to keep the dog's weight on the ground.

I tried to stand, but fell because of the pain in my ankle. The crowd was screaming and swearing now. From my hands and knees I swung the lug wrench and landed a good blow on the haunches of the dog. It didn't let go of Maeva, though. I heard the clank of the cage door. With my one good leg I launched myself onto the dog and grabbed its collar with one hand. I jammed the pointed end of the wrench into the dog's mouth, breaking a few of its teeth in the process. The dog still didn't let go until I pried, levering the end of the wrench up into the upper palate and forcing the lower jaw down. Maeva screamed again as the dog fell from her arm.

Another dog came charging at us from the cage door. I managed to kick it away for a moment, but it came again from a different angle. I held it off with the wrench. The first dog was going at Maeva again, but she was hiding behind me as best she could. The dog lunged at her torso this time and got a mouthful, but it turned out to be only clothing. Maeva's flimsy blouse shredded and a big piece of it tore away as the dog gyrated. The gaping hole revealed a good view of the lacy bra Maeva wore. This in turn caused cheers and catcalls from the men, and even the women, in the crowd.

Bracing myself against the fence, I managed to get into a standing position, supporting myself with only the one good leg. I kept the dogs at bay for a few seconds with the tire iron, but I could see movement at the cage door. There was another dog being readied. Suddenly one of the first two dogs attacked the other. This is what they were trained to do, after all. They were both leaving us alone, but for how long I didn't know. I took advantage of the moment and told Maeva to put her foot in my hands. I held my hands in the traditional "boost"

position and she stepped into them. I gave a shove and she was somehow able to get one, then both feet onto the top rail of the wooden fence.

“Jump,” I bellowed. “There’s a dumpster on the far side where you can jump down.”

She tried to jump up onto the bar roof, but one arm was almost useless from the bite. I wouldn’t have been surprised if it was broken. She almost fell when she landed back on the top rail of the fence, but I steadied her with my free hand. The dogs were still fighting each other, but I could see a third dog rush toward us now. I dropped the wrench so I could use both hands. I grabbed the top of the fence and lifted myself up enough to get my good foot onto the lower rail. I held one hand up at full length over my head and told Maeva to try again. She understood what I was doing and placed one foot in my outstretched palm and leaped.

She made it over the edge of the roof with a thump and a cry of pain. I reached in my pocket and pulled out my phone.

“Call 911,” I yelled as I threw my phone up onto the roof with her. I assumed her phone had been taken from her as she entered, or was left in her car.

“I’m so sorry,” I heard her call back, but I was just relieved that I heard the crunch of her footsteps as she ran across the gravel roof. Recriminations could wait.

The third dog lunged at me as I turned back to face the pack of dogs. The first two were still fighting, with one of the dogs in its final moments from the look of it. I needed my good leg to support my weight, so I had to kick at the attacking dog with the sprained one. As my foot made contact with his muzzle, an agonizing bolt of pure pain shook me to my core, but I succeeded in knocking the new dog onto the other two. This caused the earlier dog, the one that was winning, to let go of the dying one and go at the one that just fell on him.

I couldn’t get to the lug wrench without coming down off the fence and reaching into the fray where the dogs were shredding flesh. I blanked for a moment, not having any idea what to do next. Then I picked out a few words and sentences from the crowd. “She got away.” “911.” I could see some people filtering out the front of the property. One man was calling to his dog in the cage. The dog was ignoring him, too engrossed in the battle. Things were breaking up. I was still trapped, but this was ending. One of the two dogs was going to kill the other, and I’d be next unless something happened to stop it. With my sprained ankle there was no way I could climb back up onto the roof. Of course, there were still the goons and Leung to deal with, too.

Suddenly the two dogs were six feet away, spinning around trying to get a good attack angle. I had a chance to go for the lug wrench. I hopped down from the fence, literally, since I had to do it using only one leg, fell to my knees, and grabbed it. I struggled up onto one leg in time to see the newest dog finishing off the other one. I hated to do it, but I didn’t see that I had any choice. I brought the wrench down with all my might on the skull of the winning dog. It crumpled in a

heap. The other one didn't seem grateful at his release. So much for man's best friend. He still had enough bloodlust in him to make a try for me, but two good blows with the tire iron sent him whimpering to the far edge of the cage. He flopped down on his side panting, whether from fear, loss of blood, or exhaustion, I didn't know.

The cage door opened and the two Chinese goons stepped in. One of them had a gun in his hand. The other had a baseball bat. They were both short, but both looked like steroid junkies. I had no chance in a fight. The crowd was disappearing fast now. I called out to no one in particular to call 911 but I saw no sign anyone was about to do so. Leung stood next to the cage now staring at me.

"Drop it," the gunman said. I dropped the wrench.

He raised the gun to his waist level. If he'd pulled the trigger at that moment, I'd have been gut shot almost exactly where Jermaine Logan had taken it. Instead he stepped toward me. The other goon did, too, moving to the side and swinging the bat ominously, like a nunchaku.

"The police are on the way," I said as confidently as I could, hoping it was true. I knew confidence was half the battle. The weaker half.

"Don't kill him," I heard Leung say. "You, mister. Why you come?"

"You know why."

"Police no come. Big riot downtown."

"They'll be here soon. Count on it. Just let me go before this turns into something serious."

"No crime. Just dog show. No problem. You burglar, jump from roof with weapon. We kill man with weapon. No problem."

"The girl got pictures. They'll know what really happened."

Leung smiled and pulled something from her purse. "Girl no got pictures." She held up an ornate brooch that I recognized as a cheap spy camera. What an idiotic choice Maeva had made. The brooch looked like something Queen Elizabeth would wear on a wool suit, not at all consistent with her tramp garb. She must have gone to the spy store and bought the cheapest thing she could find. I have some better equipment in my office, but it's locked in a cabinet. She knew I'd never let her use it for this.

"I gave her my phone," I replied. "She has them now." This was no bluff. I had only taken a few still shots with my phone when I'd been on the roof, no video. I wasn't sure they'd be convincing enough, but I thought it would suffice.

Leung said something in Chinese to one of the men, the one with the bat. He replied and pointed up to the bar roof. She barked something back at him. He pointed toward the front yard. Leung nodded.

"We wait," Leung said. The man with the bat came out of the cage and put the bat down. He headed for the front yard. I stood weighing my options and none of them looked good. The gunman was standing there grinning at me, looking like he was itching to pull the trigger.

We didn't have to wait long. Twenty or thirty seconds later the bat goon returned with another man. Between them was Maeva, sobbing. Damn! I thought she'd gotten away. There'd been another goon outside who'd caught her. He handed a phone to Leung. She said something to him in Chinese that I took to mean good work.

"No pictures now," Leung said to me, holding the phone to the cage so I could see that it was mine. I watched as she poked at it a few times. She asked one goon to help her and he took the phone from her and fiddled with it for a few seconds. He handed it back to her and shook his head.

She looked at me. "You give password," she demanded.

Of course. My phone was locked. I knew I hadn't locked it. It was in my pocket ready to use. On the bar roof I had taken it out to dial 911 when I'd had to run back to save Maeva. That meant Maeva must have hit the lock button when she'd been taken captive. That was smart, but it left me wondering if she'd had time to call 911, and even if she had, was there any chance she'd gotten through considering all the riots going on? And been able to give a location?

Maeva was being shoved back in the cage at that point. The bat goon stepped in after her, bat in hand again. I didn't reply to Leung.

"You give password," she demanded louder. When I didn't reply she barked something at the bat goon. He stepped forward, shoving Maeva in front of him. She fell at my feet, still sobbing. She gasped in pain when she landed and sat holding her left forearm, the one that the dog had bitten, with her other hand.

There were only the six of us now: Leung, her three goons, Maeva, and I. No witnesses. We were at their mercy. The man with the bat stepped up next to me and whacked my sprained ankle with the bat. I cried out in pain.

"Password," Leung said again. I still didn't reply. She said something else to the man and he held the bat out an inch from Maeva's injured arm then took a backswing.

"No!" Maeva screamed, turning away.

"Okay!" I yelled. "Don't hurt her. I'll tell you."

"Password," Leung demanded once more. I recited it to her. She punched it in and smiled. Thank god she hadn't miskeyed it or misunderstood me. If it hadn't unlocked who knows what punishment we would have endured.

The third goon was standing behind her and when he saw my main screen he called out "PayPal!" and pointed to something. Leung tapped at the screen. She turned it to me again so I could see the PayPal login screen and repeated that loathsome word, "password" yet again.

My PayPal account was tied to my business bank account. I had over a hundred thousand in that account. She could make a few PayPal transfers to herself from there and clean me out if I gave her my password.

"I don't remember," I lied.

"You pay me. Kill my dog. Settle lawsuit. Password."

"I don't remember it. I only use that from my desktop computer."

“You lie!,” she screamed suddenly and called to the bat goon again. He took another backswing and this time started to bring it forward toward Maeva.

I launched myself into him with the strength in my one good leg, colliding with enough force to knock us both down just before the bat would have made contact with her arm. The gunman started toward us yelling something Chinese, but we were rolling around so fast he couldn’t take a shot. He ran up and stepped directly over us, grabbed my hair, and yanked my head up against the barrel of the gun.

“Okay, I’ll tell,” I shouted, releasing the other man, but I didn’t think I’d live to be able to make good on that promise. Then I heard a peculiar dull sound, immediately followed by a thump. The man let go of my hair.

There was good reason for this, since he was in a heap on the dirt floor of the cage, a lug wrench buried in his skull. I grabbed his gun before the bat goon could do so, and rolled away from him. I rolled up to a sitting position, the gun pointed right at him. He’d gotten up, but stopped in his tracks and put his hands up at the sight of the gun. I told him to back up toward the cage door. He did so. I told him to open it. He tried to do so, but couldn’t. I finally looked around and realized Leung wasn’t in sight. Apparently she or the third goon had locked the cage door during our struggle, then left. Maeva and I were locked in the cage with this goon, one dead one, and three dead dogs. Leung had my phone.

“Nice work with the tire iron,” I said to Maeva.

“I sort of owed you one,” she replied. Her quart of mascara was now deposited in streaks down both cheeks. She looked like a sickly mime. The stiletto heels were long gone. “So what do we do now?”

“He’s got a phone,” I replied. Turning to the goon I said, “Toss your phone to me.”

He didn’t make any move. I took aim and cranked off a shot a few inches from his feet. He jumped a foot, then nodded a vigorous okay. He slowly reached into his pocket and pulled out a phone. I repeated my demand for the phone and he suddenly threw it over the fence and up onto the bar roof, then grinned at me like he’d just won.

I wanted so bad to shoot him, but restrained my urge. Maeva let out a string of blue language that I didn’t know she had in her. Apparently she watched R movies, too. She and I looked at each other. This wasn’t going well.

I heard distant voices from the direction of the house. I couldn’t see them. They must have been inside the house with the window open. Leung was talking to the other goon. Then I heard a sound I liked even less: the rack of a shotgun.

It was time to forget the heroics and give up. It was only money and we were trapped. “I’ll tell you the PayPal password,” I shouted at the top of my lungs, hoping she could hear. As I watched the back of the house, I saw the back door open a crack and the barrel of a shotgun stuck out. I couldn’t see inside. I quickly turned back to the goon by the cage door. I couldn’t be looking at him

and the house at the same time. I told Maeva to keep an eye on him and nudge me if he moved.

“You tell me password now. Talk loud,” Leung’s voice reverberated from the doorway.

I called out the passphrase I used. It was the name “AmbroseBierce” followed by a digit, an ampersand, and three nonsense letters in upper case. She asked me to repeat it and several seconds passed. I wondered how much would be gone by the time we got out of there. If we got out of there.

“You spell,” came the voice. Leung obviously wasn’t familiar with names of 19th century English wits.

I got as far as the capital B when I heard the first siren. I looked at Maeva. She smiled and nodded. She had reached 911 before being captured. I stopped spelling. Leung yelled at me to continue, but I remained silent. Seconds later the shotgun disappeared from the back door, which slammed shut. The sirens were now very loud and it was obvious there were at least two cars.

Leung came running out, apparently unafraid of me using the handgun, and unlocked the cage door. The bat goon immediately barged out, almost knocking her over. She opened the door wide, tossed me my phone, and said, “You go. All mistake. No problem. Dog show.”

She scurried back toward the house but wasn’t fast enough. Two Oakland cops were already running up the driveway and ordered her to stop. She complied. The goons snuck out the gate to the vacant lot on the side, but they got caught by officers on that side. Maeva and I were still in the cage. I had dropped the gun in the dirt by the time the officers got there. Everyone was marched back into the back yard. A third car arrived, followed by a fourth.

Maeva and I were questioned briefly, but our injuries required that we be taken to the hospital. Ambulances arrived soon after the police. The paramedics first tended to the goon with the lug wrench in his skull, but quickly determined he’d met his maker, or at least Toyota’s maker. Maeva and I were put in separate ambulances, a police officer in each.

I told the whole story to the officer riding with me, who took some notes. She seemed hostile and skeptical at first. She didn’t recognize me or my name, which was all for the best. With her shoulder mike she ran my name through dispatch and got the hit on the criminal complaint from Leung about me killing the dog. When she found out I was retired FBI, she began to take my story more seriously. She had seen the dead dogs and blood in the fighting cage, too, so by the time I finished she was fully on board with my version.

I asked her how it was that the police were able to respond so fast with so many vehicles when there were riots downtown. She said I must not have heard. The FBI agent who had been released on the false murder charge had shown up an hour ago and told the demonstrators to go home. The officer, who was white, didn’t remember the speech details, but said it had been enough to make most of the demonstrators leave. The few troublemakers had been rounded up quickly

after that and most of the officers were free to return to regular duty. In fact they were overstaffed at that point, hence the fast response. She asked if I knew the agent. I told her I did and that he was a good man.

So Woody had unknowingly saved my life by freeing the police from riot duty. I've never liked corny phrases like "pay it forward" but there was an undeniable zen-like karma to it. Is karma zen? I think it's Hindu, actually, but who cares. It somehow seemed fitting and just, is all I know.

At the hospital I waited hours before anyone saw me. I was treated for my sprain and the scrapes from the fight and the gravel were cleaned up. The ER personnel seemed to think I was a wimp for even being there with nothing more serious, but they knew the cops had brought me in and gave me only some gentle ribbing. When one of the nurses, a Japanese gal, heard I was ex-FBI she asked if I knew the handsome FBI guy who had just been let out on the murder charge, I said yes. She asked if I had his number, but I told her he had a girlfriend and left it at that.

There is a higher court than courts of justice and that is the court of conscience. It supersedes all other courts.
Mahatma Gandhi

Chapter 24

Ellen is back at work and I'm on child care duty right now. We have day care for him, but he's sick today and I'm elected to stay home. Ellen doesn't have my flexibility. We're making less money, but I don't mind. Ellen's salary partially makes up for what I'm not making. I've been waiting decades for this fatherhood privilege and I'll be damned if I'm going to miss out on it.

I wish I could tell you that Woody got his job back. He didn't. Woody is working for a bail bondsman catching fugitives, something he was very good at in the FBI. He's together with Louise now, and she makes good money. Bert told me she's a shoo-in for partner in a few years. If they stay together he'll be fine. Bert succeeded in getting him a fat settlement on the false arrest. I have no idea what Connie Jefferson is doing now.

The Bureau followed Fitzhugh's logic, asserting that Woody should have known the gun was loaded and in fact should have unloaded the five-shot at home before he even brought it to the range since he knew he would be firing it using wadcutter. This was B.S., I knew, but they had to make a pretense of supporting the SAC's personnel decision.

Speaking of the devil, Fitzhugh took a job as security head of some shipping company in Costa Rica less than a month after the charges were dropped. Everyone knew it was retire or be ignominiously reassigned to count paperclips somewhere deep in the bowels of FBI Headquarters. He'd ordered the arrest of an innocent man for murder, after all – one of his own agents, no less. Publicly the Bureau justified his decision as reasonable based on the known evidence, but privately they did what they always do when things go sideways: they lop heads.

Mossberg disappeared. I heard rumors he went back to his home town to live with his folks somewhere in the Midwest. His wife divorced him, that much I know. The U.S. Attorney came within a hair's breadth of prosecuting him for obstruction of justice or manslaughter, but the Department of Justice, parent to the FBI as well as the prosecutors, had had enough bad publicity. They wanted the whole incident out of the news cycle so they let him go.

Bobu was given a letter of censure and transferred to Knoxville Division. The letter cost him his next pay raise, but the cost of living there was half what it was in San Francisco, so he came out ahead. He was from Lexington, Kentucky originally, too, so he was almost back home. Everyone knew that was a briar patch kind of discipline. The only thing he did wrong, really, was to trust Mossberg, his fellow agent and firearms instructor.

Maeva came out of this whole thing chastened and contrite. She swore she learned her lesson about undercover work. She knew she had no business going into that dog fighting ring alone and with no means of self-defense or communication. I didn't impose any discipline on her, though. She was hard enough on herself, and the injury to her arm was sufficient reminder of her foolishness. She was lucky it wasn't broken and didn't have permanent nerve damage, but the muscles of her forearm were torn up pretty bad. Her left arm was in a sling for two weeks. She's back at work doing a bang-up job, no pun intended, and carrying more of the load now that I'm working only part-time.

There was another reason I didn't discipline her, too. The spy camera brooch was recovered by the police and had good quality video of the fighting and of Leung making book. Leung's being prosecuted now for animal cruelty, gambling, and felony murder for the death of the goon that Maeva crowned with the tire iron. I suppose we'll have to testify in her case if it goes to trial. I just thank god Maeva's right arm hadn't been the one injured. She bats right-handed. Leung's lawsuit against me was dismissed. It turns out she'd killed her own dog in a scam she worked out with the two muggers after she found my coat in her yard. They turned on her in exchange for a pass on criminal charges. Bert recommended I go after her civilly for malicious prosecution, but I declined. I never did hear from Hiram Twomey again.

As for me – well, I came out okay, too. Part of the civil settlement for Woody's false arrest suit was payment of all of Woody's legal expenses, including the cost of my investigation. I got fully paid from FBI coffers. On top of that, once Woody's innocence was clear, contributions to his legal defense fund came pouring in. He eventually got reimbursed over double what his actual legal costs were. Woody insisted Bert pay me a bonus, a fat, high-five-figure bonus. So I came out ahead, way ahead. I decided it was time to buy that second car, even though Ellen had her Bureau car back. From the Prius, I'd gotten to appreciate the time savings that came with an electric car and the ability to drive solo in the carpool lane. I'm now the proud owner of a Tesla Model S. That's nice, but seeing Woody free and happy was the real reward. He and Louise are having Ellen and me and Tommy over for barbecue next weekend. I heard they got a dog. It better not be a pit bull.

Dedication

This book is dedicated to the men and women of the Federal Bureau of Investigation. The FBI is the finest law enforcement organization in the world. I'm proud to have served as a Special Agent of the FBI for twenty-five years and will always cherish the opportunity I had to serve my country in that way. Agents put their lives on the line every day to protect the public. The support personnel work every bit as hard as the agents and do an incredible job for ridiculously small salaries. We all owe them a tremendous debt of gratitude.

When reading works of fiction involving the FBI, it is easy to forget the reality and assume a cynical or inaccurate attitude toward the agency. The same is true for police and other public safety professionals. This book is fiction. The characters are not real. Any resemblance or similarity to real people is coincidence. The views expressed herein are not those of the FBI. The story and characters are created solely for entertainment and do not reflect the more mundane reality of protecting the public day in and day out. Enjoy the story, but do not let it detract from your appreciation of the people who allow you to live a safe and comfortable life in this country.

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Russell Atkinson
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