

UPDATED: Meryl Nass, MD, criticizes FBI's closing of anthrax case and says that the "suspected anthrax killer," scientist Bruce Ivins, didn't have the means, motive or opportunity to carry out the anthrax attacks. See page 7 of this report.

The Anthrax Case must be reopened

By Cliff Kincaid

Rep. Rush Holt (D-N.J.) and Roscoe Bartlett (R-MD.) deserve enormous credit and thanks for leading the congressional effort to hold the FBI accountable over its bungling of the investigation into the post-9/11 anthrax attacks that killed five Americans. The FBI has officially "closed" the case and conveniently blames a dead man, who committed suicide under FBI pressure, for the anthrax murders.

The FBI blames "the late Dr. Bruce Ivins" and claims that he "acted alone in planning and executing these attacks." But the "evidence" is unconvincing and the case should still be considered unsolved. Ivins, like another suspect in the case, Dr. Stephen Hatfill, had been harassed and hounded by federal agents. The difference is that Hatfill stood up to the pressure and eventually collected a financial settlement from the federal government for the damage to his career and reputation.

But the FBI wouldn't have been able to try to frame Hatfill without the cooperation of the major media, including the New York Times and ABC News.

The "progressive" community, which was anxious to find a domestic source of the anthrax attacks, defended the FBI.

The Holt/Bartlett Congressional amendment (House Amendment 581), which passed by voice vote, directs the Inspector General of the Intelligence Community "to review available intelligence, including raw and unfinished intelligence, to determine if there is any credible evidence of a connection between a foreign entity and the attacks on the United States in 2001 involving anthrax." The Holt-Bartlett amendment to the 2010 Intelligence Authorization Bill was passed by the House and goes to the Senate.



Dr. Stephen Hatfill, a "person of interest" in the anthrax case, was exonerated and paid damages by the FBI.

From the start of the FBI's inquiry, the bureau seemed determined to eliminate Al Qaeda as a source of the attacks and that the FBI's misconduct was only exceeded by the reporters who ignored or excused it.

Holt, chair of the Select Intelligence Oversight Panel and a member of the House Permanent Select Committee on Intelligence, notes, "Given that samples of the strain of anthrax that was used in the attacks may have been supplied to foreign laboratories, it is important to examine whether or not evidence of a potential foreign connection to the attacks was overlooked, ignored, or simply not passed along to the FBI."

Holt and Bartlett had written a "Dear Colleague" letter asking for the new investigation of the FBI and declaring, "We already know that the FBI too quickly jumped to conclusions about the nature and profile of the culprit or culprits and hastily identified two individuals. One later received a multimillion dollar settlement and apology for mistaken accusations. Indeed, this investigation was mishandled at multiple points, which is why a thorough, independent re-examination is so important."

"The FBI botched this case from the very beginning, and now they have arbitrarily closed the investigation because they are sure they have their man – just as they were sure they had their first man, who they had to pay \$6 million for false arrest," said Holt. The letters with the anthrax were mailed from Holt's central New Jersey congressional district. They featured the phrase "Death to America," "Death to Israel," and "Allah is God," which were sure signs that an Islamic extremist had written them. But the FBI dismissed these obvious leads as a diversion intended to falsely blame radical Islam and focus attention away from the real perpetrator, supposedly a right-winger with a military background.

Actually, former government scientist Dr. Stephen Hatfill, who supposedly fit the profile, was never arrested for the anthrax murders. But he was termed a "person of interest" by then- Attorney General John Ashcroft and his career was destroyed by the FBI as they sought to frame him for the attacks.

After paying financial damages to Hatfill, the FBI picked on another alleged villain, Dr. Bruce Ivins, and hounded him until he committed suicide. Ivins worked at Fort Detrick in Bartlett's congressional district in Frederick, Maryland.

Bartlett commented, "His colleagues say that he would not have done it and the FBI said early on that he could not have done it because the spores were weaponized and he had no ability to do that."

While the major media have regurgitated the FBI's line on Ivins, Megan Epstein of the Frederick News Post noted that the FBI's conclusions are a subject of much dispute by those who worked with and supervised him.

She noted that Jeffrey Adamovicz, former chief of bacteriology who supervised Ivins' work at the U.S. Army Medical Research Institute of Infectious Diseases, had said that, "The evidence is still very circumstantial and unconvincing as a whole. I'm curious as to why they closed the case while the (National Academy of Science) review is still ongoing. Is it because the review is going unfavorable for the FBI?"

Bartlett noted these comments on the House floor and remarked that, "They would not let the current scientists at Fort Detrick talk to me." So the cover-up continues.

The still unsolved case makes a mockery of claims that President George W. Bush "kept us safe" after the 9/11 attacks. The anthrax murders came after 9/11. Unfortunately, the premature closing of the case under the Obama Administration means that the FBI hasn't learned any lessons from its handling of the case and that corrupt practices continue at the agency.

It also means that the U.S. is still unprepared for a biological terrorist attack.

We immediately came to the defense of Hatfill and understood early on that the FBI had the wrong man. The FBI went after Hatfill because of a flawed psychological profile and pressure from left-wingers who wanted to pin the anthrax murders on a conservative with military and scientific credentials.

The likely culprits, we argued, were Al Qaeda operatives who were part of a second wave of attacks on the U.S. homeland. But because the FBI went on a media-generated wild goose chase after Hatfill, precious time, leads and evidence were lost.

The perpetrators fled the country, were deported for immigration law violations, or are still here.

Some of those with black eyes from the scandal include, in addition to the FBI:

- The "progressive" ACLU, supposedly devoted to the rights of innocent people, never went to Hatfill's defense. However, it is quick to go to the defense of suspected foreign terrorists in U.S. custody who claim to have been mistreated.
- New York Times columnist Nicholas Kristof wrote five columns and thousands of words urging more FBI scrutiny of the scientist. He portrayed Hatfill as a despicable character with an unsavory past. Kristoff has not apologized to Hatfill.
- Brian Ross of ABC News aired several false allegations, based on anonymous sources, against Hatfill, trying to link him to the attacks.
- Liberal Senators Tom Daschle and Patrick Leahy, the recipients of two of the anthrax letters, encouraged the pursuit of Hatfill. They figured that since they were liberals, the anthrax letters must have come from someone with a vendetta

against them. In other words, a right-winger. Hatfill, a bioweapons researcher at Fort Detrick with conservative views, was determined to fit the bill.

Now comes the FBI, closing the “Amerithrax” investigation on February 19 and blaming another former government scientist, Bruce Ivins, who had killed himself after harassment and hounding from the same FBI. The scandal never ends.

Our only hope of getting to the bottom of this on-going travesty is the Holt/Bartlett amendment.

Ironically, on the same day the FBI closed the case, former Attorney General Ashcroft was given the “Defender of the Constitution” award at the Conservative Political Action Conference (CPAC). The evidence shows that Ashcroft and his Justice Department trampled on Hatfill’s constitutional rights. Conservatives should never forget or ignore these facts.

Media Shield Law Would Protect Corrupt Officials

We have also argued that the media coverage of the Hatfill case constitutes a significant reason why a federal media shield bill must not pass Congress. Such a bill would give journalists the right to conceal sources, even in national security cases.

We noted in a column that Hatfill correctly argued that the leaks from the government violated his right to privacy and that he wanted to identify through litigation the government agents who fingered him. In order to do that, however, he had to have the ability to force reporters to identify sources who provided them information about the Justice Department's investigation. That was the only way to root out these corrupt government officials.

A federal media shield law gives added protection to corrupt government officials and their media mouthpieces to avoid scrutiny and accountability.

“Like many Americans I trusted that the news that would be presented to me on television and in the newspapers would be filtered and have some degree of accuracy,” Hatfill declared at an Accuracy in Media conference in 2002. He quickly found out that the opposite was the case.

Anthrax Letters Analysis

Kenneth J. Dillon, a former Foreign Service officer and intelligence analyst, described the writing on the envelopes carrying the anthrax letters as authentic expressions of an al Qaeda operative. In what appeared to be the work of someone who spoke and wrote poor English, they said, "Take Penacilin (sic) Now. Death to America. Death to Israel. Allah is great." Dillon said, "None of the various features of the letters points clearly to a domestic terrorist." In particular, he said telling the target person to get "penacilin" can

be explained as gloating, as making sure that the person would not just die of an unknown cause, or as an attempt to mislead.

On why Democratic Senators Tom Daschle and Patrick Leahy were targeted, Dillon noted that this has been viewed by some as an indication that the letters were the act of a domestic right-winger. But in fact, he said, Egyptian Islamic Jihad (EIJ), the key component of al Qaeda under Dr. Ayman Zawahiri, head of al Qaeda's biowarfare program, had targeted Senator Leahy because of his role as head of a panel of the Senate Appropriations Committee that had developed the so-called "Leahy Law" in 1998. Dillon explained, "According to the wording of the Leahy Law, the U.S. Government was authorized to 'render' suspected foreign nationals to the government of a foreign country, even when there was a possibility that they would be tortured, in 'exceptional circumstances.' When the Leahy Law was applied to send EIJ members captured in the Balkans back to Egypt, Zawahiri fiercely denounced the United States.

So Leahy was a high-priority target.

Dillon added, "Neither fingerprints nor DNA evidence was found on any of the letters, suggesting that the mailer had excellent forensic skills. It is conceivable that a domestic terrorist had mastered forensics, but it is not likely. Forensic skills are highly characteristic of a former Egyptian intelligence agent or special forces operative."

Anthrax and Al Qaeda

Attorney Ross Getman has written extensively on the anthrax mailings of Fall 2001 and points to Dr. Ayman Zawahiri, head of Egyptian Islamic Jihad, as being behind the attacks. In the story, "Suspect and A Setback in Al-Qaeda Anthrax Case," dated October 31, 2006, A01, the Washington Post noted that Pakistani scientist Abdur Rauf "was first publicly associated with the documents by Ross Getman" – letters showing that Rauf (aka Rauf Ahmad) was on a mission on behalf of Ayman Zawahiri to obtain virulent anthrax. Under the Freedom of Information Act, the Defense Intelligence Agency had provided Getman this correspondence that was seized in Afghanistan in the Fall of 2001. A 1984 graduate of Harvard Law School, his book, *Anthrax and Al Qaeda: Infiltration of US Biodefense*, 440 pages, (2010), is available at blurb.com.

"In December 2001," according to the Post story, "as the investigation into the U.S. anthrax attacks was gathering steam, coalition soldiers in Afghanistan uncovered what appeared to be an important clue: a trail of documents chronicling an attempt by al-Qaeda to create its own anthrax weapon. The documents told of a singular mission by a scientist named Abdur Rauf, an obscure, middle-aged Pakistani with alleged al-Qaeda sympathies and an advanced degree in microbiology. Using his membership in a prestigious scientific organization to gain access, Rauf traveled through Europe on a quest, officials say, to obtain both anthrax spores and the equipment needed to turn them into highly lethal biological weapons. He reported directly to al-Qaeda's No. 2 commander, Ayman al-Zawahiri, and in one document he appeared to signal a

breakthrough. 'I successfully achieved the targets,' he wrote cryptically to Zawahiri in a note in 1999."

Those captured documents "suggest a close collaboration between the two men [Zawahiri and Rauf] as they sought equipment for a bioweapons lab," the Post article said.

The Post story added:

Several leading bioterrorism experts still contend that the evidence points to al-Qaeda or possibly an allied group that coordinated its attack with the Sept. 11, 2001, strikes on the World Trade Center and the Pentagon. These experts point to hijacker Mohamed Atta's inquiries into renting a crop-duster aircraft and to an unexplained emergency-room visit by another hijacker, Ahmed Ibrahim A. Al Haznawi, for treatment of an unusual skin lesion that resembled cutaneous anthrax.

Another Analyst Questions Closing of the Anthrax Case

Bio-terrorism expert and author of *The Anthrax Letters*, Dr. Leonard Cole, says that the "Amerithrax" case involving the post-9/11 anthrax letters that murdered five people was closed too soon by the FBI. In a statement, Dr. Cole declared that:

"It seems bizarre that the FBI would close the anthrax case now. A National Academy of Sciences committee that is assessing the bureau's purported scientific evidence has yet to issue its findings. The FBI's action is doubly perplexing since it commissioned the academy's investigation in the first place."

Cole is described as the only person outside law enforcement to have interviewed every one of the surviving inhalation-anthrax victims, along with the relatives, friends, and associates of those who died, as well as the public health officials, scientists, researchers, hospital workers, and treating physicians. He holds a PhD in political science from Columbia University and teaches public policy at Rutgers University.

Regarding the FBI's claim that Dr. Bruce Ivins may have been the perpetrator of the 2001 anthrax attacks as the FBI alleges, Cole says it is possible but that "the evidence is circumstantial and no way can Ivins be considered guilty 'beyond a reasonable doubt,' as has been claimed by Justice Department and FBI officials, including FBI Director Robert Mueller."

Cole added, "Since Ivins committed suicide (in July 2008), there will be no trial, cross-examination, or deliberation by a jury--so a conviction cannot have been assured."

Concerning the “case” that the FBI makes against Ivins in the media, Cole points out, ““There remain important gaps in the evidence.” For example, Ivins lived and worked in Frederick, Maryland, and the letters were mailed from Princeton, New Jersey. “There are no witnesses or other evidence that placed him in Princeton at the times of the mailings,” he notes.

Cole says that even if you concede that Ivins had developed and stored the strain of anthrax sent in the letters, “more than one hundred co-workers had access to his laboratory, which was at the Army's Fort Detrick research facility” and “Several of his colleagues remain convinced that he was not the perpetrator.”

FBI’s Fall Guy Didn’t have the Means, Motive or Opportunity

Meryl Nass, MD, has a leading blog on the case (<http://anthraxvaccine.blogspot.com/>) and is an outspoken critic of the U.S. Government’s handling of the case. She offers the following comments on the FBI’s closing of the case:

In terms of the strength of the FBI’s case against Ivins, I would break down an analysis in the following way:

1. To prove that a person committed a crime, they must be shown to have all three of the following: means, motive and opportunity. Has the FBI proven that Ivins had all three?

- Means: Retired colleagues have said he did not have the equipment to make Daschle-quality anthrax in the amounts required using equipment available to him at Fort Detrick. Anonymous colleagues at Fort Detrick claim he could. FBI has failed to clarify this major issue. FBI has not been able to “reverse engineer” the anthrax and therefore does not know what equipment was needed to produce it. FBI has made a series of changing claims over time about silicon found in the spore preparation.
- FBI has not identified the Bacillus strain contaminant (found in the first letters) in the Fort Detrick lab, suggesting the spore material was made elsewhere.
- Motive: The FBI has alleged a variety of motives at different times, but none of them seem to make any sense. The latest report has errors of fact in its discussion of motive.
- Opportunity: Could Ivins have made it to the Trenton/Princeton area to mail letters and returned to Frederick in time to meet his other obligations? The FBI’s first reported (2008) scenario of how this may have occurred was incorrect. I have not seen a convincing scenario since.

2. What is the evidence amassed by the FBI for and against Ivins? The documents released in February were selected to prove his guilt using circumstantial evidence and character assassination. What about other evidence?
3. What evidence did the FBI have against earlier suspects, including Steven Hatfill and Perry Mikesell? Why did FBI wait until after Ivins' death to exonerate Hatfill, months after he received a several million dollar settlement from the government?
4. Ivins' death scenario begs many questions. Why wasn't he given a Tylenol antidote to prevent liver failure? Ivins was allegedly found unconscious on the bathroom floor with an orange liquid next to him. A Tylenol overdose requires several days before you die, and does not cause coma for days. If the benadryl in Tylenol PM led to unconsciousness (according to a later account by Scott Shane in the NY Times) there was still time to treat him successfully for Tylenol toxicity. Ivins was under 24/7 surveillance by FBI, from the house next door. FBI should have identified an overdose *before* several days had passed, and the window of opportunity for treatment was lost. FBI could have furnished Ivins' medical providers with information that might have saved his life. The medical records of Ivins' hospitalization have not been released.
5. The FBI's account of Ivins using "classic" countermeasures to outsmart a lie detector test is nonsense, according to a former FBI agent (Drew Richardson, PhD) with broad experience in this area, who has provided Congressional testimony on polygraph testing. Initially it was reported that Ivins had passed two polygraph tests. What did the second test show?
6. How were other potential perpetrators ruled out? (Dr. Drew Richardson says that polygraph tests would not be sufficient to rule other suspects out.) How was a crime involving more than one actor ruled out?
7. Why did the FBI try Ivins in the media, using a series of leaks, for which the FBI later apologized, immediately after Ivins' death?
8. Why did FBI close the case with no additional hard evidence, apart from a new theory about a DNA code within the anthrax letters, months before the National Academy of Science report on FBI's forensic science, commissioned by FBI, was released?

There are a number of additional issues, but these should suffice to indicate the FBI's case is entirely unsatisfactory.