

U.S.

Former F.B.I. Agent Sues, Claiming Retaliation Over Misgivings in Anthrax Case

By SCOTT SHANE APRIL 8, 2015

WASHINGTON — When Bruce E. Ivins, an Army microbiologist, took a fatal overdose of Tylenol in 2008, the government declared that he had been responsible for the anthrax letter attacks of 2001, which killed five people and set off a nationwide panic, and closed the case.

Now, a former senior F.B.I. agent who ran the anthrax investigation for four years says that the bureau gathered “a staggering amount of exculpatory evidence” regarding Dr. Ivins that remains secret. The former agent, Richard L. Lambert, who spent 24 years at the F.B.I., says he believes it is possible that Dr. Ivins was the anthrax mailer, but he does not think prosecutors could have convicted him had he lived to face criminal charges.

In a lawsuit filed in federal court in Tennessee last Thursday, Mr. Lambert accused the bureau of trying “to railroad the prosecution of Ivins” and, after his suicide, creating “an elaborate perception management campaign” to bolster its claim that he was guilty. Mr. Lambert’s lawsuit accuses the bureau and the Justice Department of forcing his dismissal from a job as senior counterintelligence officer at the Energy Department’s lab in Oak Ridge, Tenn., in retaliation for his dissent on the anthrax case.

The anthrax letters were mailed to United States senators and news organizations in the weeks after the Sept. 11, 2001, terrorist attacks, causing a huge and costly disruption in the postal system and the federal government.

Members of Congress and Supreme Court justices were forced from their offices while technicians in biohazard suits cleaned up the lethal anthrax powder. Decontamination costs nationwide exceeded \$1 billion. At least 17 people were sickened, in addition to the five who died.

The bureau's investigation, one of the longest-running and most technically complex inquiries in its history, has long been seen as troubled. Investigators initially lacked the forensic skills to analyze bioterrorist attacks. For several years, agents focused on a former Army scientist and physician, Dr. Steven J. Hatfill, who was subsequently cleared and given a \$4.6 million settlement to resolve a lawsuit. Reviews by the National Academy of Sciences and the Government Accountability Office faulted aspects of the F.B.I.'s scientific work on the case.

Mr. Lambert, who was himself criticized for pursuing Dr. Hatfill for so long, has now offered, in his lawsuit and in an interview, an insider's view of what hampered the investigation.

"This case was hailed at the time as the most important case in the history of the F.B.I.," Mr. Lambert said. "But it was difficult for me to get experienced investigators assigned to it."

He said that the effort was understaffed and plagued by turnover, and that 12 of 20 agents assigned to the case had no prior investigative experience. Senior bureau microbiologists were not made available, and two Ph.D. microbiologists who were put on the case were then removed for an 18-month Arabic language program in Israel. Fear of leaks led top officials to order the extreme compartmentalization of information, with investigators often unable to compare notes and share findings with colleagues, he said.

Mr. Lambert said he outlined the problems in a formal complaint in 2006 to the F.B.I.'s deputy director. Some of his accusations were later included in a report on the anthrax case by the CBS News program "60 Minutes," infuriating bureau leaders.

The F.B.I., which rarely comments on pending litigation, did not respond to requests for comment on Mr. Lambert's claims.

Although the lethal letters contained notes expressing jihadist views,

investigators came to believe the mailer was an insider in the government's biodefense labs. They eventually matched the anthrax powder to a flask in Dr. Ivins's lab at Fort Detrick in Maryland and began intense scrutiny of his life and work.

They discovered electronic records that showed he had spent an unusual amount of time at night in his high-security lab in the periods before the two mailings of the anthrax letters. They found that he had a pattern of sending letters and packages from remote locations under assumed names. They uncovered emails in which he described serious mental problems.

The investigators documented Dr. Ivins's obsession with a national sorority that had an office near the Princeton, N.J., mailbox where the letters were mailed. They detected what they believed to be coded messages directed at colleagues, hidden in the notes in the letters.

As prosecutors prepared to charge him with the five murders in July 2008, Dr. Ivins, 62, took his own life at home in Frederick, Md. Days later, at a news conference, Jeffrey A. Taylor, then the United States attorney for the District of Columbia, said the authorities believed "that based on the evidence we had collected, we could prove his guilt to a jury beyond a reasonable doubt."

But Mr. Lambert says the bureau also gathered a large amount of evidence pointing away from Dr. Ivins's guilt that was never shared with the public or the news media. Had the case come to trial, he said, "I absolutely do not think they could have proved his guilt beyond a reasonable doubt." He declined to be specific, saying that most of the information was protected by the Privacy Act and was unlikely to become public unless Congress carried out its own inquiry.

After retiring from the F.B.I. in 2012, Mr. Lambert joined the Energy Department. But an F.B.I. ethics lawyer ruled that because Mr. Lambert had to work with F.B.I. agents in his new job, he was violating a conflict-of-interest law that forbade former federal employees from contacting previous colleagues for a year after they had left their government jobs.

That ruling led to his dismissal, Mr. Lambert said, and he has not been able to find work despite applying for more than 70 jobs. His lawsuit asserts

that several other former F.B.I. agents were able to take identical intelligence jobs with the Energy Department and that he was singled out for mistreatment.

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