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Monday, December 10, 2001

The Honorable Henry J. Hyde, Chairman
Committee on International Relations
U.S. House of Representatives

Re: Investigation into Responsibility for Recent Anthrax Incidents

Dear Chairman Hyde:

While I was able to monitor only a portion of the Committee's hearings of Wednesday, December 5, 2001 (as broadcast by C-SPAN), at which Messrs. Spertzel and Alibek and Ms. Harris testified concerning responsibility for the recent anthrax incidents, I was struck by the absence of references by the witnesses and by members of the Committee to certain matters of potential significance. Interestingly, these appear also to have been ignored in course of law-enforcement and related investigations of these incidents and by the news media.

Two fundamental lacunae of inquiries into the recent anthrax incidents can be identified:

First, the recent incidents are assumed to be without historical precedent. Yet, such an assumption is **false logic**. Because there is a lack of documented cases does not mean there have been no incidents.

Second, the institutional or historical context of these events has been largely ignored. In fact, whether of domestic or foreign origin, these anthrax incidents emerge within the **rich context** of current and historical, foreign and domestic activity involving **lethal biological and chemical agents**, and the elements comprising this context are **interrelated across time and geography**.

Because of these lacunae, traditional law enforcement methods of "investigating crimes" is dangerously inadequate.

Having devoted substantial attention to this nexus of issues over the past two years,¹ I take the liberty of outlining briefly specific matters which the Committee and other bodies with oversight and law-enforcement responsibility should consider.

- **Ill-founded presumption of the uniqueness of recent events** – Official public pronouncements and media commentaries have repeatedly stated that the recent incidents of inhalational-anthrax-initiated illness and death represent the first to be observed in the United State since 1976.²

That the last *officially-recognized* case of inhalational-anthrax infection occurred in 1976 cannot be interpreted to mean that no cases of inhalational-anthrax infection have occurred in the interim. Rather,

1 At the outset I should indicate that my interest in this subject emerged from the serendipitous intersection of two initially independent lines of inquiry. One originated in my role as an economic consultant to a major national law firm defending a client in litigation initiated in the aftermath of an airplane crash, which eventually led to an inquiry into the nominally unrelated (and unexplained) death of a businessman in Oklahoma (requiring intensive study of its possible causes, including inhalational anthrax). The second, which I was motivated to pursue, initially, as a former member of the Michigan House of Representatives, involved the privatization of the state's Biological Products Laboratory, the sole U.S. manufacturer of anthrax vaccine. I have been assisted in these increasingly intertwined inquiries by a Russian investigator.

2 See, e.g., J. Jernigan et al., "Bioterrorism-Related Inhalation Anthrax: The First 10 Cases Reported in the United States," **Emerging Infectious Diseases** (U.S. Centers for Disease Control and Prevention), vol. 7, no. 6 (Nov.-Dec. 2001), <http://www.cdc.gov/ncidod/EID/vol7no6/jernigan.htm>.

any cases of inhalational-anthrax infection which have occurred over this period have not been officially recognized and recorded.

In fact, it is highly likely that that a previous incident of illness or death attributable to inhalational anthrax would not have been correctly diagnosed. First, it is unlikely that inhalational anthrax would even have been considered to be a possible cause. Thus, the consensus statement of a DHHS-initiated working group on anthrax as a biological weapon observed: "Early diagnosis of inhalational anthrax would be difficult and would require a high index of suspicion."³ In the absence of "a high index of suspicion" associated with a particular person's illness or death an attending physician or medical examiner would be unlikely even to test for anthrax as the cause.

Second, a failure to test for anthrax early in the course of the disease renders it difficult if not impossible to identify anthrax later in the course of the disease, after the patient has been administered antibiotics. Thus, the working group's consensus statement notes: "In experimental animals, once toxin production has reached critical threshold, death occurs even if sterility of the blood-stream is achieved with antibiotics."⁴ In short, in the absence of an early diagnosis anthrax may never be identified as the cause of the illness.

This conclusion is reinforced by analysis of three of the first ten recent cases:

The diagnosis of anthrax was established in three patients **without growth of B. anthracis** from clinical specimens. In all three of these cases, proper cultures were obtained **only after initiation of antibiotic therapy**. The diagnosis in these patients was established by a history of exposure or occupational and environmental risk with a clinically compatible syndrome, by the identification of B. anthracis in pleural fluid, pleural biopsy, or transbronchial biopsy specimens by immunohistochemical staining with B. anthracis-specific cell wall and capsular antibodies, or by identifying B. anthracis DNA by PCR on pleural fluid or blood. Serologic data from ELISA available for one patient with inhalational anthrax also demonstrated a >4-fold increase in levels of serum antibody (IgG) to the PA component of anthrax toxins.⁵ [Empases added.]

Notably, the more sophisticated means of identification have been developed only relatively recently. Even in the three referenced recent cases these techniques would not have been employed in the absence of the "high index of suspicion" arising from the prior identification of anthrax in a significant number of cases involving a narrowly-defined population (postal workers and mail handlers, comprising eight of the ten cases) over a relatively brief period. Thus, Jernigan et al. conclude: "The clinical presentation in these patients was variable and often resembled a viral respiratory illness, but the interpretation of the initial symptoms **in the context of a possible exposure to B. anthracis often** [but not invariably] led to an early diagnosis." [Empasis added.]

In short, we do not know how many inhalational-anthrax deaths occurred in the United States between 1976 and September 2001. We know only that the officially-assigned cause of any inhalational-anthrax death which did occur either has been "unknown" or is incorrect.⁶

3 T. V. Inglesby et al., "CONSENSUS STATEMENT-- Anthrax as a Biological Weapon, Medical and Public Health Management," **JAMA**, vol 281, no. 18, pp. 1735-45 (May 12, 1999).

4 Inglesby et al., p. 1737.

5 Jernigan et al.

6 A possible example is provided by the case of an Oklahoma businessman (whom I will identify here only as X) who, quite innocently, found himself involved in a dispute which led to his discovery of pervasive public corruption, originating in Oklahoma but extending to the nation's capital. As a cooperating witness for the FBI and through his private litigation, X threatened the public revelation of this criminal activity. However, before this corrupt nexus could be exposed, X suddenly became ill, exhibiting symptoms which, in retrospect, appear quite consistent with inhalational an-

In light of the **unlikelihood of detection** of an incident of inhalational anthrax infection it would be rather surprising if inhalational anthrax had not been employed in the commission of a homicide. The only obstacle would be the difficulty of procuring the means.

In this context, Dr. Alibek's stress on the relatively modest knowledge and facility requirements for the production of deliverable anthrax is particularly significant. Moreover, criminal deployment does not require criminal production. Lethal ("weapons-grade") anthrax, used quite legally for such purposes as animal tests of the efficacy of vaccines and the development of antibiotic regimens,⁷ is certainly available in the U.S. and abroad. Thus, employment of anthrax as a lethal agent requires only the participation of a person with access to these existing stocks. If foreign governments have been able to induce agents of the FBI, CIA, Defense Department and INS to engage in espionage against the United States, as they have, then it would certainly not be surprising if a criminal element had been able to induce a much less closely-monitored employee of a government, academic or industrial laboratory, here or abroad, to provide weapons-grade anthrax to be utilized in the commission of a crime. With negligible accountability and recordkeeping "a few spores missing" would be unnoticed.

- **Failure to consider those engaged in the development and use of lethal biological agents** – Despite the plethora of media and investigative inquiries, no attention has been given to **obvious intelligence clues**. Close sources indicate that no investigator or official inquiry has followed up on these few examples:

In early March 2000 at his home in Irvine, Orange County, California, **Larry C. Ford**, M.D., died of a shotgun blast. His death was later ruled a suicide, notwithstanding the fact that his firearms had supposedly been confiscated by the police several days before, after the attempted murder of his business partner, a crime for which he was a principal suspect. Only later was it revealed that Ford had served as a consultant to both the CIA and the chemical- and biological-weapons program of the South African Defense Forces, headed by **Wouter Basson**. Ford's contributions to Basson's program included lecturers on converting ordinary items into lethal biological weapons. After Ford's death his Irvine neighborhood was evacuated for several days as federal authorities excavated a weapons' bunker in Ford's yard and removed samples of various toxic biological agents found in Ford's refrigerators. The specific biological agents found in Ford's home have never been identified by the authorities, nor have they reported if any toxic agents were found in the university and other laboratories used by Ford. An initially frenzied FBI investigation quickly became quiescent. One Ford associate reports that **Ford had been in contact with BioPort Corporation**, sole U.S. manufacturer of anthrax vaccine. Recently discovered evidence indicates that, shortly before his death, Ford was actively preparing to

thrax, and quickly died. Although unable to identify a cause of death, the state's medical examiner ruled that the manner of death was "natural"; as a result, no criminal investigation was conducted. When, more than two years later, I challenged this determination, the medical examiner changed the manner of death to "unknown." Only four years after X's death have I been able to secure the necessary court orders to permit an independent toxicological examination, which will be undertaken shortly.

X's case might appear to be one in which a "high index of suspicion" should have been present. However, his attending physicians were entirely unaware of the dispute in which he was involved, of his role as a cooperating witness for the FBI and of the fact that his discoveries were likely to have significant political consequences. For reasons which are unexplained, the agents of the FBI with whom he had worked also failed to conduct an investigation and, in fact, strongly encouraged the staff of the medical examiner to characterize the manner of X's death as natural.

7 This point is significant in that the Biological Weapons Convention [BWC] is frequently claimed, erroneously, to prohibit the development of "weapons grade" biological agents. In fact, Public Law 101-298 (18 USC Sec. 175), the Biological Weapons Anti-Terrorism Act of 1989, which implements the BWC, explicitly exempts "the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for prophylactic, protective, or other peaceful purposes."

move his medical-scientific work abroad. Close Ford associates expected a revival of the investigation after the onset of the recent anthrax incidents but have observed no evidence of any current Ford-related activity on the part of the FBI or other agencies.⁸

Ford's colleague **Wouter Basson**, M.D., headed the **South African biowarfare program** from its inception in the late 1970s until it was nominally abandoned in 1993. Arrested in 1997 on **charges of murder, embezzlement and drug violations**, Basson's trial commenced in 1999 and continues today. Sessions of Basson's South African trial were held in Florida in January 2000 to hear testimony of attorney David R. Webster, who had created a **complex of off-shore companies and accounts** through which Basson operated.⁹ Revelations in the course of his trial include: Basson claims to have enjoyed access to the U.S. Army Medical Research Institute for Infectious Diseases [AMRIID] and Porton Down, respectively the principal U.S. and U.K. chemical-biological warfare establishments. Basson was involved in several undertakings (of an undetermined nature) with **Libyans** and made numerous trips to Libya, continuing after his program was terminated (leading to successful British and U.S. demands that he be reemployed, and controlled, by the South African government). He also had established relationships in the U.S.S.R. and in a number of eastern and western European countries. South African responsibility for a major anthrax outbreak in Rhodesia (now Zimbabwe) in 1979 is currently being investigated. Basson is alleged to have developed such means of delivery of biological agents as, e.g., anthrax-laced cigarettes.

On November 23, 2001, the New York Times reported the death, two days earlier, of **Vladimir Pasechnik**, former director of the Institute of Ultra Pure Biochemical Preparations, a component of the Soviet biowarfare establishment, **Biopreparat**. Pasechnik had defected to Britain in 1989. In England Pasechnik was employed by **Porton Down** until he joined in the creation of a private company several years ago. With the exception of the Times obituary Pasechnik's death went unreported for almost a week. Interestingly, the Times was apparently informed of Pasechnik's death by the U.K. Ministry of Defense representative on the team which had debriefed Pasechnik after his defection.¹⁰ In Russia the National News Service commented: "The chief developer (while in Soviet Union) of the military grade plague as well as several successful types of binary weapons died, according to the New York Times obituary, from the stroke, although the fact that the newspaper quotes a former member of British intelligence rather than the doctor, makes people to believe in the other versions of death of the person who knew too much."¹¹ While the "other versions" of Pasechnik's death and the substance of those matters of which he "**knew too much**" are not revealed, the coincidence of Pasechnik's death and the recent rash of anthrax-related illnesses and deaths is certainly interesting.

8 Ford is of particular interest because of the plausibility of his association with persons placed at risk by the Oklahoma businessman, X, referenced in an earlier footnote. Among those whose interests were threatened by X's discovery of public corruption and other crimes was X's erstwhile Oklahoma partner, Y, who has substantial business interests in Orange County, California; Ford and X's former partner were prominent members of the same church. After X's death, Y, who had had no biotechnology experience, formed a biotechnology company, just as Ford was seeking a new corporate umbrella which would permit him to evade obligations to his then-partner in California (the target of the attempted murder in February 2000).

9 Although the Jacksonville sessions of the Basson trial were held in the U.S. Courthouse, the public was excluded, nominally on orders of the presiding South African judge but with the evident encouragement of the assistant U.S. attorney assigned to assist in the proceedings.

10 The Time's source, Christopher Davis, M.D., has since left the U.K. Ministry of Defense and now is employed in the U.S. by Veridian, a private defense consulting firm.

11 National News Service (www.nns.ru/chronicle), Moscow, 27 November 2001, 08:58.

In the early 1980s a significant part of the “civilian” component of the British Porton Down complex, the Centre for Applied Microbiology and Research [CAMR], was privatized as Porton International, a creation of **Wensley Haydon-Baillie**, who reputedly became one of the 50 wealthiest persons in Britain as a result of what was alleged to have been political favoritism in the acquisition of government assets by Porton International. At least by the early 1990s **Ibrahim** and **Fuad El-Hibri** acquired an interest in Porton International and/or related Proton Down spin-offs, Porton Products and Speywood Holdings, and were instrumental in obtaining anthrax vaccine in the U.K. for Saudi Arabia. In 1997 the U.S. Department of Defense awarded a defense-biologics contract in excess of \$300 million to Dynport LLC, which is a joint venture of Porton International and U.S. defense contractor Dyncorp. By the late 1990s Haydon-Baillie had lost control of Porton International (accused of personal enrichment at the expense of the company), entered bankruptcy and been arrested for tax fraud. Haydon-Baillie’s current activities have not been reported, but his history is instructive with reference to the careers of those who have secured control of significant components of the biowarfare complex.

By a process reminiscent of Haydon-Baillie’s creation of Porton International, in 1998 **Ibrahim** and **Fuad El-Hibri** and Admiral **William J. Crowe, Jr.**, who had just returned from a posting as ambassador to the United Kingdom, created BioPort Corporation, which acquired the State of Michigan’s Biological Products Laboratory, the principal function of which was the production of anthrax vaccine for the U.S. Department of Defense. This “privatization” of a state laboratory was highly questionable in a number of respects. The managers of the public laboratory, director **Robert Myers** and deputy director **Robert van Ravenswaay** (an attorney on the state’s central administrative staff assigned to oversee the privatization process), appear to have insured that the successful bidder (one of only two final bidders) would give them a significant share of the ownership (as much as 32 percent) of the new entity. Admiral Crowe obtained his interest (approximately 13 percent) as what appears to have been a “gift” of the El-Hibris. Together, the ownership interests of Crowe and Nancy Grunenwald El-Hibri were claimed to give American citizens majority ownership, even prior to Fuad El-Hibri’s adoption of American citizenship. Although BioPort has yet to obtain FDA approval to sell a single dose of vaccine, the Department of Defense, immediately after the privatization, agree to a contract modification which increased the per-dose price from \$3.50, charged by the state-owned lab, to \$10.64, with “advance payments” to cover the cost of renovating the production facility. In the meantime, BioPort has been engaged in a vitriolic dispute with three members of the state lab’s scientific staff who claim a proprietary interest in the lab’s technology, in the course of which certain critical documents were claimed to have been taken by the disgruntled former employees. In mid 2000 a lab employee died of questionable causes.

Consideration of the issues which I have highlighted could have profound consequences for the scope, manner and effectiveness of the current terrorism investigation. To view recent incidents as entirely without precedent and as occurring outside of any meaningful historical, organizational and social context will be, at best, inefficient and, at worst, will doom the investigation to failure.

Should you, your staff or other appropriate authorities care to pursue these issues further, you will have my cooperation.

Sincerely,



Stephen P. Dresch, Ph.D.