

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STEVEN J. HATFILL, M.D.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action Number
)	1:03CV01793
ATTORNEY GENERAL JOHN ASHCROFT,)	
ET AL.,)	
)	
Defendant.)	

DECLARATION OF RICHARD L. LAMBERT

I, Richard L. Lambert, declare as follows:

1. This declaration is submitted in support of the government's motion for a stay of proceedings in this civil action due to the pendency of a related criminal investigation. The statements made in this declaration are based on my personal knowledge of facts and information obtained and reviewed in the course of my official duties.

2. I am a Special Agent of the Federal Bureau of Investigation (FBI). I entered on duty with the FBI in July 1988. I have been a Special Agent for over 15 years. My education consists of a Bachelor's Degree, Masters Degree in Political Science, Master's Degree in Public Administration and Doctor of Jurisprudence Degree. I am licensed to practice law in the State of Texas. Before entering on duty with the FBI, I practiced law in Austin, Texas. Since entering on duty with the FBI I served as a white collar crime and violent crime

investigator in the St. Louis Field Office; as a Supervisory Special Agent in the Legal Counsel Division and Office of Professional Responsibility at FBI Headquarters; as a Supervisory Special Agent of an Organized Crime/Drug Squad in the Norfolk Field Office; as an Assistant Inspector in the Inspection Division at FBI Headquarters; and as an Assistant Special Agent in Charge of counterterrorism and foreign counterintelligence matters in the San Diego Field Office. Since October 5, 2002, I have been assigned as the Inspector in Charge of the joint FBI/U.S. Postal Inspection Service investigation known as "AMERITHRAX."

3. The AMERITHRAX investigation was initiated in October 2001. The objective of the investigation is to identify and to prosecute the individual or individuals responsible for the worst bioterrorism attack in U.S. history. These attacks involved the mailing of four anthrax-laden letters: two letters were mailed to New York, New York on or about September 18, 2001 and two letters were mailed to Washington, D.C. on or about October 9, 2001. It is suspected that a fifth anthrax-filled letter was mailed to Boca Raton or Lantana, Florida on an undetermined date. Two United States Senators and two highly prominent members of the news media were specifically targeted for anthrax exposure by the perpetrator(s) of the attacks. The FBI has recovered four envelopes containing letters and anthrax

powder which were used in these attacks. These envelopes were addressed to Tom Brokaw at the National Broadcasting Corporation, the "Editor" of the New York Post newspaper, U.S. Senator Tom Daschle, and U.S. Senator Patrick Leahy.

4. As a consequence of these mailings, 22 persons were infected with anthrax; five persons died and 17 survived. It is estimated that over 30,000 individuals underwent an antibiotic regimen to protect against anthrax infection. At least 17 post offices and other public office buildings were contaminated with anthrax, requiring the expenditure of millions of dollars for clean up and remediation. The total estimated economic damage from these attacks stands at over one billion dollars. The concomitant injury to the collective American psyche is incalculable. These acts of bioterrorism exacerbated the trepidation and vulnerability felt by the American people in the aftermath of the September 11, 2001 terrorist attacks, spawning nationwide fear about the safety of all mail delivered through the U.S. postal system.

Investigative Methodology

5. The scope and complexity of the AMERITHRAX investigation are unprecedented in the FBI's 95 year history. To date, the FBI has expended over 231,000 agent hours in the

investigation of the anthrax attacks - the equivalent of 89 Agent work years.

6. To advance the AMERITHRAX investigation, the FBI has developed an analytical framework for prioritizing investigative initiatives. This framework consists of a bifurcated approach which focuses concurrently on traditional evidence collection methods targeting people and places, and scientific evidence collection procedures aimed at profiling and exploiting the forensic characteristics of the anthrax evidence itself.

7. With regard to the first prong of this framework, individual persons have been identified for investigation based upon the extent to which they exhibit one or more investigative criteria. The second prong of the AMERITHRAX investigation is focused on an examination of the anthrax spores which were found within the envelopes mailed to the victims of the attacks.

8. Both investigative prongs are active and ongoing, resulting in the collection of additional evidence, the generation of new investigative leads, and the development of cutting-edge forensic techniques and analysis.

Specific Harms Reasonably Anticipated from Proceedings on
Plaintiff's Privacy Act Claim

9. A stay of plaintiff's Privacy Act claim is viewed by the FBI as critical to the integrity and successful resolution of the AMERITHRAX investigation. Litigating plaintiff's claim before the criminal investigation is resolved will undermine the government's ability to investigate and prosecute the perpetrator(s) of this crime and potentially permit the restrictive rules of criminal procedure to be circumvented. It is reasonably anticipated that plaintiff will seek discovery of and access to information collected under the auspices of the AMERITHRAX investigation. Such discovery would likely seek investigatory records compiled for law enforcement purposes, including case summaries and other probative evidentiary documents revealing details of the investigation, such as the character and nature of evidence acquired, the identities of individuals who are cooperating, the names and addresses of persons interviewed, the substance of witnesses' statements, investigative techniques and procedures, and ongoing and planned investigative initiatives.

10. Accepting as true plaintiff's allegation that he is being investigated in connection with the anthrax attacks, it follows that allowing plaintiff to take civil discovery of investigative files and to depose investigative agents and

officials could easily enable plaintiff to probe into how and why he is being investigated and where the investigation is headed. Indeed, the broad and sweeping nature of plaintiff's complaint appears calculated to lay the predicate for discovery into every aspect of the investigation as it might relate to plaintiff. Plaintiff's complaint alleges numerous specific investigative actions relating to him -- such as polygraph examinations, searches of his residence, and electronic surveillance of his telephone. The complaint further makes allegations regarding the motives behind, evidentiary basis for, and results of, these alleged actions. It is not possible to proceed with discovery on any of these subjects without divulging sensitive information that will compromise and frustrate the AMERITHRAX investigation.

11. If such information reaches plaintiff or other individuals, it will afford them a voyeur's window into an active, pending and ongoing criminal investigation. Such disclosures will provide information concerning the focus and direction of the investigation, including the FBI's interest in specific individuals and the factual predicate for that interest. Arming plaintiff or other individuals with such knowledge will afford them multiple opportunities to interfere with and obstruct the investigation by destroying, hiding, secreting, and otherwise concealing evidence; coercing, intimidating, harassing, or retaliating against witnesses; fleeing the country or avoiding

FBI contact; framing justifications, altering recollections, crafting alibis, manufacturing exculpatory explanations, or feigning lack of remembrance.

12. Revealing the specific investigative techniques being used by the FBI in this case will impair their effectiveness by permitting plaintiff or other individuals to identify and employ countermeasures aimed at thwarting them.

13. Once public, it is probable that these disclosures will subject both those under investigation and witnesses to intense media scrutiny, thus chilling the cooperation and diminishing the candor which might otherwise be forthcoming during interviews with the FBI.

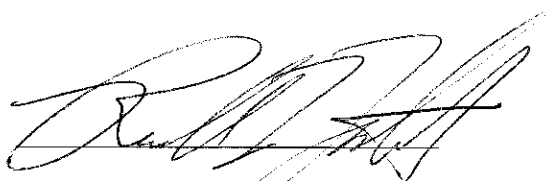
14. If classified information were disclosed in this case, even inadvertently, it would reveal scientific and technological matters related to national security; special intelligence collection activities, sources, and methods; and the vulnerabilities and capabilities of installations, projects and plans relating to U.S. bio-weapons defense and national security. In the hands of those hostile to the U.S., this valuable intelligence could aid state-sponsors of terrorism or terrorist organizations in their efforts to genetically engineer or alter their anthrax bio-weapons to "spoof" or escape detection by currently utilized U.S. defense technologies.

15. In addition to the foregoing harms posed by disclosure of the types of information described above, any discovery proceedings in this matter will divert and distract FBI Agents and Postal Inspectors from investigating the most serious bioterrorism attack in U.S. history. Permitting discovery to go forward in this matter may impede investigators' ability to identify, gather and collect evidence in a timely manner. This consequence will accrue if investigators are embroiled in responding to interrogatories, requests for production of documents and depositions.

16. All of these outcomes will seriously and adversely affect the FBI's ability to effectively and efficiently conduct the AMERITHRAX investigation.

Pursuant to Title 28, United States Code, Section 1746,
I declare under penalty of perjury that the foregoing is true and
correct.

Executed this 21st day of November, 2003.

A handwritten signature in black ink, appearing to read 'Richard L. Lambert', written over a horizontal line.

Richard L. Lambert
Inspector in Charge
Federal Bureau of Investigation
Washington, D.C.