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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NUMBER: 9:03-cv-81110-CIV-HURLEY/HOPKINS

MAUREEN STEVENS, as Personal
Representative of the Estate of
ROBERT STEVENS, Deceased, and
on behalf of MAUREEN STEVENS,
Individually, NICHOLAS STEVENS,
HEIDI HOGAN and CASEY STEVENS,
Survivors

Plaintiffs

vs.

UNITED STATES OF AMERICA
Defendant

_____ /

The Videotaped deposition of ARTHUR M.
FRIEDLANDER, M.D. was held on Wednesday, June 8, 2011,
commencing at 9:20 a.m., at USAMRIID, 1520 Freedman
Drive, Second Floor, MWR Conference Room, Fort Detrick,
Maryland 21702, before George W. Tudor, Notary Public.

REPORTED BY: George W. Tudor

Page 2

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1 PROCEEDINGS
2 THE VIDEOGRAPHER: We are now on the record
3 in the matter of Maureen Stevens, as Personal Represent
4 of the Estate of Robert Stevens, deceased, and on behalf
5 of Maureen Stevens, Individually, Nicholas Stevens,
6 Heidi Hogan and Casey Stevens versus United States of
7 America, in the United States District Court, Southern
8 District of Florida, Case Number
9 903-CV-81110-CIV-Hurley/Hopkins.
10 Today's date is June 8th, 2011. The time
11 is approximately 9:20 a.m. This is the video recorded
12 deposition of Dr. Arthur Friedlander, being taken at
13 1520 Freedman Drive, Fort Detrick, Maryland, 21702.
14 My name is John Sherman, here on behalf of
15 Gore Brothers Reporting and Videoconferencing, located at
16 20 South Charles Street, Baltimore, Maryland, 21201,
17 Suite 901. The court reporter is George Tudor, from
18 Gore Brothers.
19 Will all attorneys please identify
20 themselves and the parties they represent, beginning
21 with the party noticing this proceeding.
22 MR. SCHULER: Richard Schuler, on behalf of
23 the Stevens family and the estate of Robert Stevens,
24 deceased.
25 MR. TARANTO: Leon Taranto, from the U.S.

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1 Department of Justice, appearing for the defendant the
2 United States.
3 MR. PATIL: Jason Patil, on behalf of the
4 United States.
5 MS. JIROUSEK-WINT: Sarah Jirousek-Winter,
6 on behalf of the FBI.
7 MR. MILLER: Jeffrey Miller, United States
8 Army, Forth Detrick, Maryland, and on telephone we have
9 Major John R. Maloney, United States Army Legal Services
10 Agency, Litigation Division.
11 THE VIDEOGRAPHER: Please administer the
12 oath.
13 Whereupon,
14 ARTHUR M. FRIEDLANDER, M.D.,
15 called as a witness, having been first duly sworn to
16 tell the truth, the whole truth, and nothing but the
17 truth, was examined and testified as follows:
18 EXAMINATION BY MR. SCHULER:
19 Q. Would you state your full name, please?
20 A. Arthur Michael Friedlander.
21 Q. What is your address?
22 A. Work address or home?
23 Q. Home.
24 A. b (6)
25 Maryland.

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1 Q. And what is your date of birth,
2 Dr. Friedlander?
3 A. b (6)
4 Q. Have you had your deposition taken before?
5 A. Ever, you mean?
6 Q. Ever.
7 A. I don't think so.
8 Q. Okay. Let me just go over a few of the
9 ground rules, and --
10 A. Okay.
11 Q. -- and I'm sure.
12 A. No, I did appear once, I guess.
13 Q. A long time ago?
14 A. A long time ago.
15 Q. The ground rules are pretty simple. You
16 have to give verbal responses, rather than a shake of
17 the head or a grunt, as most of us do during normal
18 conversation.
19 You have to -- the best thing to do is to
20 wait until I finish my question before you answer it,
21 because Mr. Tudor can't take both of us talking at the
22 same time. And thirdly, if any of my questions are
23 unclear to you, please let me know and give me a chance
24 to rephrase them. Will you do that?
25 A. Um-hmm, yes.

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1 Q. And finally, can we assume that if you
2 answer my question, you understood it?
3 A. Yes.
4 Q. Are you presently employed,
5 Dr. Friedlander?
6 A. Yes.
7 Q. And by whom are you employed?
8 A. The U.S. Army.
9 Q. And what do you do for the U.S. Army?
10 A. I do research at USAMRIID.
11 Q. What is your -- the name for your position
12 at USAMRIID?
13 A. Senior Scientist.
14 Q. Can you favor us with a short summary of
15 your educational background, training and experience in
16 the field of medicine and in any specialty that you have
17 acquired along the way? And when I ask you to do that,
18 please give us the dates of graduation, the types of
19 diploma, the certificates or degrees that you have and
20 in a chronological fashion, if we can.
21 A. Okay. I have an A.B. from Harvard College
22 in 1961, an M.D. from the University of Pittsburgh in
23 1965. I then did internal medicine training in
24 Brooklyn, New York, and then did a postdoctoral
25 fellowship at the National Cancer Institute from '67 to

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1 '69. I then did an infectious disease fellowship at the
 2 University of California in San Diego from '69 to '72.
 3 Was then assistant professor of medicine in infectious
 4 diseases at the University of California San Diego
 5 Medical School from '69 to -- from '72 to 1972 to 1979,
 6 at which time I moved to USAMRIID, and I have been here
 7 ever since.

8 Q. And take me through the different positions
 9 that you have had at USAMRIID since '79, as best you can
 10 recollect them at this time.

11 A. I think I was initially in the bacteriology
 12 division as an investigator. I'm not quite sure of the
 13 term -- the time frame here, but then I was in the
 14 Department of Pathology for a few years; I then became
 15 chief of Aerobiology Division and then was chief of
 16 Bacteriology Division and then became a Senior Medical
 17 Military Scientist, and then Senior Scientist.

18 Q. What years were you chief of the
 19 Bacteriology Division?

20 A. I believe it was 1990 to 1998.

21 Q. Who preceded you in that position; do you
 22 recall?

23 A. I think -- I'm not sure, but I think it was
 24 Colonel Henshaw. Not Henshaw; I'm forgetting. It's not
 25 Henshaw. I can't remember his name. It was a Colonel

Page 11

1 Headling.

2 Q. Was it -- Headling? Hedlund?

3 A. Headling, I think, but I'm not absolutely
 4 sure.

5 Q. And then Dr. Byrne was the one that
 6 succeeded you?

7 A. I believe so.

8 Q. So you have been with USAMRIID roughly 32
 9 years --

10 A. Um-hmm.

11 Q. -- in various capacities?

12 A. Yes.

13 Q. Are you board-certified in infectious
 14 diseases?

15 A. No.

16 Q. In any particular specialty?

17 A. Nope.

18 Q. Prior to becoming chief, were you in the
 19 bacteriology division?

20 A. I'm not -- I had been when I first arrived.
 21 I'm not sure if I was chief of aerobiology at the time
 22 before I became -- switched to become chief of
 23 bacteriology.

24 Q. What is aerobiology?

25 A. There's not a distinct division now, but it

Page 12

1 was the division that was responsible for the aerosol
 2 experimentation and for research having to do with
 3 mucosal immunology and the development of vaccines as
 4 well.

5 Q. Now, when you became chief of bacteriology,
 6 who did you report to?

7 A. The commander at the time.

8 Q. Do you recall who that was?

9 A. I don't.

10 Q. Did the commanders change every few years?

11 A. Yes.

12 Q. Do you remember some of the commanders that
 13 you would have reported to from '90 to '98?

14 A. Yes. It was Colonel David Franz, Colonel
 15 Gerald Parker. Those are the two I can remember. Oh,
 16 there was also Colonel Eidson. And Colonel Ronald
 17 Williams, I think.

18 Q. As chief of bacteriology for approximately
 19 eight years, was your office located in building 1425.

20 A. Yes.

21 Q. And is that where you did most of your work
 22 at the time?

23 A. Yes.

24 Q. What were your duties and responsibilities
 25 as chief of bacteriology?

Page 13

1 A. Administratively, to run the division, the
 2 personnel aspects and space, budgetary concerns, and I
 3 also was involved in some of the research.

4 Q. Was there any particular types of research
 5 that you were involved?

6 A. I was involved in anthrax research in terms
 7 of vaccines and also plague research.

8 Q. Was there a group of people that were
 9 involved in the anthrax research?

10 A. Yes.

11 Q. Do you remember -- was there a committee
 12 that was devoted to that?

13 A. I know the -- at different times, I believe
 14 that it was. Some of that, when it -- when the research
 15 became more geared towards the development of a vaccine,
 16 there were -- I wasn't directly involved in that at that
 17 time, and that may have been after I was division chief.
 18 But there were certainly informal research groups.

19 Q. Who were the people who were involved in
 20 the anthrax research, as best you recall, while you were
 21 there as chief?

22 A. It was Sue Welkos, Bruce Ivins, Steve
 23 Little. I'm trying to remember the dates when I was
 24 chief. I'm not sure if Joel Bozue was there at that
 25 time or whether he came subsequently. Those are the

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1 predominant -- well, Pat Worsham was involved in anthrax
2 research as well.
3 Q. Now, when you talk about Ms. Welkos and
4 Dr. Ivins, Little, Bozue, Worsham, were they all
5 investigators?
6 A. Yes.
7 Q. Were there other people that were either
8 lab techs or had other roles also involved in the
9 anthrax research?
10 A. Yes.
11 Q. And do you recall how many or approximately
12 or who their names may have been? I'm putting you to
13 the test here.
14 A. It's difficult -- yeah, I'm not too good at
15 these tests. I know the people that worked for me,
16 Steve Tobrey --
17 Q. What did Mr. Tobrey do?
18 A. He has worked for me for many years now.
19 He works as a technician, doing a variety of research
20 procedures.
21 Q. Did he work with anthrax at that time.
22 A. Yes.
23 Q. Were there also Ph.D. fellows, if you will,
24 that were working with anthrax?
25 A. Yes.

Page 15

1 Q. What about NSC fellows or things of this
2 nature, were they also involved in that?
3 A. There were -- the postdoctoral fellows,
4 through various programs who worked on anthrax.
5 Q. Were there any foreign nationals that were
6 involved with that research?
7 A. Yes.
8 Q. Do you remember where they came from, or
9 some of them, at least, came from?
10 A. I'm not sure of the time frame for some of
11 these. Some of them were before I was division chief.
12 Or one of them, I can remember, but there were people
13 from India, Israel, who worked on anthrax.
14 Q. Do you remember if there were any students
15 from China who were working on this also?
16 A. Not to my knowledge.
17 Q. What about contractors at the Ph.D. level,
18 were there contractors as well?
19 A. Not at that time, I don't believe.
20 Q. How did the -- you mentioned a vaccine.
21 Did that -- did the focus on attempting to provide a
22 vaccine come into play around the time of the first Gulf
23 war in the early '90s?
24 A. It was around that time.
25 Q. So that would have been sort of at the same

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1 time that you took over as chief?
2 A. Yes.
3 Q. Now, on a day-to-day basis, would you be in
4 the building, 1425, pretty much on the usual working
5 hours, a 40-hour week?
6 A. Yes.
7 Q. Was there an assistant chief of
8 bacteriology during your tenure?
9 A. I'm sure there was. I don't remember.
10 Q. How many people overall worked in the
11 bacteriology division during the '90s?
12 A. I don't -- I couldn't give an accurate
13 estimate. My guess would be maybe 30, 25, 30, would be
14 my guess.
15 Q. And how were the people, if you know, hired
16 to work in the bacteriology division?
17 MR. TARANTO: Counsel, are you asking for
18 the military, the civilian, or both?
19 Q. Well, let's start with civilian.
20 A. When -- there is a process in the
21 government in terms of advertising for positions, and
22 that would go forward, and basically an ad hoc committee
23 would take a look at the resumés of the individuals,
24 people would then, some of them, be invited to give a
25 presentation, and based upon that, a decision was made

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1 to hire them, usually by the division chief, in
2 conjunction with the senior investigators in the
3 division.
4 Q. And during your tenure, that would have
5 been you, ultimately, along with your senior
6 investigators?
7 A. Yes.
8 Q. Of any of the people that you mentioned,
9 Susan Welkos, Dr. Ivins, Mr. Little, Mr. Bozue, Pat
10 Worsham, did you hire any of those people?
11 A. The only one that was possible, I'm not
12 sure if it was an overlap with my time, would be Bozue.
13 He may have come as a postdoc and then he was hired, and
14 I don't know if it was after I was division chief or
15 not.
16 Q. Now, beyond their scientific expertise,
17 were there certain other qualifications for someone to
18 work here at USAMRIID, and specifically if they had to
19 -- were going to be working in the hot suites, in the
20 biocontainment areas? Did they have to go through any
21 specific -- and I'm talking about -- all of my questions
22 are with regard to civilians right now.
23 A. Um-hmm.
24 Q. Did they have to go through any background
25 checks or any physicals or anything like that?

1 A. I don't know what the -- my recollection is
2 that there was a clearance process that the government
3 employees went through. I know there was -- I think the
4 employment was contingent upon a physical exam and
5 evaluation of -- health exam, and I think that's --
6 those are the requirements.

7 Q. And was there any mental or psychological
8 testing, do you know, for anybody that wanted to be
9 employed here?

10 A. Well, to my knowledge -- I wasn't involved
11 in that evaluation, but knowing that there is a -- an
12 examination by a physician. As part of the physical
13 examination, any physical examination by a physician,
14 there is an evaluation of mental health. It's
15 standard -- a standard part of an exam is the physical
16 part. To my knowledge, I know that occurred, that
17 examination, physical examination occurred as part of
18 the hiring process. I don't know whether there was
19 anything other than that, other than the clearance,
20 whatever is involved in that.

21 Q. And who would have been responsible for the
22 physical examination?

23 A. I don't know whether they're still called
24 the Special Immunizations Program then, but there was in
25 the medical division, the physicians there were

1 responsible for, as I recall, the examination that --
2 the employment examination.

3 Q. Okay. And there were forms that had to be
4 filled out that were given to them, a medical history
5 and so forth?

6 A. I'm sure. I don't recall the details of
7 it.

8 Q. Were you enrolled in the SIP program
9 yourself?

10 A. Yes.

11 Q. And was it important -- not important --
12 was it mandatory to be enrolled in the SIP program if
13 you were going to do work in the biocontainment suites?

14 A. I believe so.

15 Q. Now, as chief, did you have -- and I'm
16 speaking of chief of bacteriology -- did you have the
17 obligation to make sure that the people that worked in
18 the biocontainment suites were both mentally and
19 physically fit to carry out their duties?

20 A. Yes.

21 Q. And did you ever have occasion to have to
22 be involved with either suspension of privileges to work
23 in the biocontainment suites or the termination of those
24 privileges because of either a mental or physical
25 reason?

1 A. Yes.

2 Q. And on how many occasions?

3 A. I believe one. I think I was the division
4 chief at the time.

5 Q. And without stating any names, obviously,
6 can you just tell me what the circumstances were?

7 A. An individual was discovered to have
8 developed a medical condition that, in the judgment of
9 the SIP, whatever they were called at the time, was such
10 that it would result in their being at increased risk,
11 should they become infected with an agent, and that
12 individual was removed from access to the suite and was
13 no longer working with highly virulent organisms,
14 whether in the suite or outside the suite. We also
15 worked under BSL 2 conditions, where there are also
16 virulent organisms.

17 Q. Did this individual continue with his
18 employment at USAMRIID?

19 A. Yes.

20 Q. You said that that situation was brought to
21 your attention by one of the doctors at SIP?

22 A. Yes. That's my recollection.

23 Q. Is that the only time that you recall
24 during your tenure that a doctor brought to your
25 attention an issue like that?

1 A. When I was division chief, and I think this
2 occurred when I was division chief.

3 Q. Now, let me ask you a little bit about how
4 the high-consequence pathogens, meaning organisms, were
5 handled in the bacteriology division. With regard to
6 the -- I understand from taking prior depositions there
7 were reference stocks and working stocks, correct?

8 A. Um-hmm, yes.

9 Q. And with regard to the reference stocks,
10 was there any centralized requirement for inventory or
11 accountability prior to 2001?

12 A. I believe so. I was not involved in the
13 reference stock inventories and repository, but to my
14 knowledge, yes.

15 Q. Okay. Who would be involved in that?

16 A. I don't know who would -- I mean, the
17 commander appoints someone. I don't know who the
18 individual was, but there was a repository for USAMRIID.

19 Q. And do you know how the inventory was kept
20 or the frequency of reporting on the inventory?

21 A. No.

22 Q. What about -- let me shift from reference
23 stocks to working stocks. What about working stocks?
24 Who had the responsibility for keeping track of those?

25 A. The investigators who were using the

Page 22

1 working stocks.
2 Q. So that was left up to the individual
3 investigators.
4 A. Yes.
5 Q. And do you know what the reporting
6 requirements were before 2001 on that, if any?
7 A. I don't know that there were any reporting
8 requirements.
9 Q. Now, I know your tenure as chief of
10 bacteriology ended in 1998. Were there any changes
11 during that eight-year time period, if you know -- and
12 if you don't know, just tell me -- in the way that
13 either the reference stocks or the working stocks were
14 inventoried and accounted for?
15 A. Not that I know of.
16 Q. Was there a requirement, if you know, that
17 there be periodic updates on the security investigations
18 for people?
19 A. To my knowledge, the security clearances
20 need to be updated every -- I think every five years.
21 Q. And who was responsible for making sure
22 that that was accomplished?
23 A. I don't know.
24 Q. But it was not your responsibility as the
25 chief.

Page 23

1 A. No.
2 Q. Do you know one way or the other whether
3 the security clearances were kept up to date?
4 A. No.
5 Q. In terms of the --
6 A. Well, I know that I had subsequent updates
7 of security clearances.
8 Q. And were they done every five years, if you
9 know?
10 A. As I remember.
11 Q. Who was responsible for keeping track of
12 the work force in terms of who was actually working or
13 cleared to work at USAMRIID versus people who had
14 left -- rosters, roster control? Who was responsible
15 for that?
16 A. Access was determined, both to the -- to my
17 knowledge -- to the institute, as well as to the
18 containment suites, by cards of one kind or another, and
19 that was, when someone leaves employment, for example,
20 there is an out-processing procedure that involves
21 eliminating them from access to the institute.
22 Q. Do you know if there were any problems that
23 arose from having new employees allowed to gain access
24 to the biocontainment suites before they had their
25 security clearance?

Page 24

1 A. I'm not aware of it.
2 Q. Were you aware of any problems that arose
3 during your tenure as chief of bacteriology with keeping
4 an accurate roster of who actually was working within
5 the division; for example, whether people that were
6 registered to work in the division, whether any of those
7 had already left and some that were working there that
8 had not made active rosters?
9 A. No.
10 Q. You don't know, or there weren't any
11 problems?
12 A. No, I don't -- there were no problems.
13 Q. Now, there were changes -- and we pretty
14 much agree there were certain changes made in inventory
15 control and also the personnel reliability that took
16 place sometime after 2001. Is that something that you
17 would have any particular knowledge of?
18 A. No.
19 Q. I know your period as chief ended in '98,
20 but I need to ask you the question.
21 A. Yes. No.
22 Q. Did you have, yourself, any familiarity
23 with personal reliability program tenets, for example,
24 that -- or requirements that were used for nuclear
25 employees or chemical employees?

Page 25

1 A. No.
2 Q. Now, you mentioned that Dr. Ivins was one
3 of the investigators that you worked with on the anthrax
4 project, correct?
5 A. Yes.
6 Q. And let me talk to you a little bit about
7 him and ask you, just kind of probe your knowledge and
8 your familiarity with him.
9 How frequently, from the 1990 to 1998 time
10 period, would you see Dr. Ivins during the work week?
11 A. At least several times a week.
12 Q. And did you -- you obviously were working
13 on similar projects or the same projects that he was
14 working on, correct?
15 A. At times.
16 Q. Outside of seeing him several times a week
17 on average over the eight-year period during the working
18 hours, did you have any type of social relationship with
19 him?
20 A. No.
21 Q. Were you aware of any problems that
22 Dr. Ivins had between himself and other employees?
23 A. No.
24 Q. Were you aware of any type of, for lack of
25 a better word, obsessive attraction he had to any of his

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1 lab assistants or people that worked with him in the
2 lab?
3 A. No.
4 Q. Were you aware during the time period that
5 you were chief of whether or not Dr. Ivins was taking
6 any type of antidepressant drugs?
7 A. No.
8 Q. Were you aware during the time that you
9 were chief of bacteriology of whether Dr. Ivins had
10 received any psychiatric or psychological care --
11 A. No.
12 Q. -- either during that time period or
13 previously?
14 A. No.
15 Q. Beside seeing him during work hours, you
16 said you had no social relationship with him, did you
17 ever travel with him on any trips to conferences, things
18 of this nature?
19 A. Yes.
20 Q. How frequently would that occur?
21 A. He attended -- I'm trying to remember.
22 There is an international anthrax meeting that occurred
23 every three years or so. I believe he attended all of
24 those during that period.
25 Q. And did you go with him, or --

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1 A. I didn't go with him. We attended the
2 meeting together.
3 Q. I see. Would that involve traveling? I'm
4 just trying to get an idea. Did you travel together to
5 the meetings?
6 A. Not together. We attended the same
7 meeting.
8 Q. Did you ever know Dr. Ivins to have any
9 drug or alcohol problem?
10 A. No.
11 Q. Now, let me ask you this: After 1998, when
12 you ceased to be chief of bacteriology, did you continue
13 to see Dr. Ivins at all after that point in time?
14 A. I would see him on occasion.
15 Q. And after you ceased to be chief of
16 bacteriology, I believe you said you became the senior
17 military scientist; is that right?
18 A. Correct.
19 Q. And you reported to -- directly to the
20 commander?
21 A. Yes.
22 Q. Did you also, while in that position, take
23 an active role in helping to manage the bacteriology
24 division?
25 A. No. I mean, I was still involved in

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1 anthrax research, so there was some overlap there, but I
2 was not, you know, in any way running the division.
3 Q. What were your duties and responsibilities
4 as senior military scientist?
5 A. To continue to do research on -- mainly on
6 anthrax, and to advise the commander.
7 Q. Did you stay -- did your office stay in
8 building 1425, or did you move to another location?
9 A. No, in 1425.
10 Q. And where was the commander located?
11 A. In the -- in 1425.
12 Q. 142?
13 A. Yes.
14 Q. Did you stay in the same office or move to
15 a different location within the building?
16 A. I moved to a different location.
17 Q. And beside yourself, were there other
18 senior research scientists that sort of held similar or
19 parallel positions?
20 A. Yes.
21 Q. And who were they?
22 A. I believe Peter Jarling and -- I don't
23 remember. There was one other individual. I can't
24 remember his name.
25 Q. Now, did you participate in the

Page 29

1 investigation that ensued after the anthrax attacks at
2 all?
3 A. Could you indicate in what manner you mean?
4 Q. Yes. Did you do any work, for example, in
5 furtherance of the investigation after the anthrax
6 attacks?
7 A. No.
8 Q. Without telling me what you may have said,
9 because we have a disagreement about the -- my ability
10 to get that information, were you interviewed by the FBI
11 at all after the anthrax attacks?
12 A. Yes.
13 Q. On how many occasions?
14 MR. TARANTO: We would object and instruct
15 the witness not to answer on the grounds stated
16 previously. We're saying the law enforcement
17 investigation and the scope of a FBI investigation and
18 communications with sources of information.
19 MR. SCHULER: So we can stipulate, then,
20 for the record that you would object and instruct the
21 witness not to answer any of my questions regarding what
22 he may have told an investigator concerning the anthrax
23 investigation, correct?
24 MR. TARANTO: Yes.
25 Q. Were you involved in, Dr. Friedlander,

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1 investigating any of the anthrax contamination incidents
2 that occurred in late 2001, 2002 and then later on, in
3 2008?
4 A. No.
5 MR. TARANTO: Just so the record is clear,
6 counsel, you're talking about incidents at USAMRIID,
7 correct?
8 MR. SCHULER: Yes.
9 Q. I came across this statement,
10 Dr. Friedlander, and this is USAM 00423 and 424, and I
11 don't mean to bushwhack you with this thing, but let me
12 show it to you, maybe it will refresh your recollection
13 and you can tell me what that involved.
14 A. This was --
15 MR. TARANTO: Before Dr. Friedlander
16 answers, we would like to look at the document as well.
17 MR. SCHULER: All right.
18 MR. TARANTO: Then I'll give it back to
19 you, Dr. Friedlander.
20 THE WITNESS: Okay. Let me just finish
21 reading it. This was May, 2002.
22 (Proffers document to Mr. Taranto.)
23 Q. My question to you, first of all, as a
24 predicate is, do you recall what that incident involved
25 that that interview was in response to?

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1 A. I believe that spores were found outside
2 the containment suite.
3 Q. And approximately what time was that?
4 A. I don't remember. This is May, 2002, so
5 sometime shortly before then. No, it doesn't say.
6 Q. That was in the bacteriology division?
7 A. Yes.
8 Q. And why would they be taking your statement
9 with regard to that in 2002 if you were no longer chief?
10 A. One of the -- there was an issue as to the
11 source of the spores, and my recollection is that around
12 the time that this occurred, there was a suggestion that
13 there was some leakage of some spores from a culture
14 inside the suite, and that was by individuals who worked
15 for me, who -- it was their experiment, and in the
16 course -- and that was at the time of -- around the time
17 or prior to the time that the spores were found outside
18 the suite, so there was some concern as to what the
19 source of these spores was.
20 Q. And they were asking you because you were
21 involved in that particular experiment?
22 A. Not -- I wasn't directly involved in the
23 experiment, but people who I supervised were.
24 Q. So you were specify advising the people
25 that were involved in the experiment.

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1 A. Correct.
2 Q. And who were the people that were involved
3 in the experiment?
4 A. I believe it was Angela Scorpio and Joel --
5 I'm not sure if -- he was involved in the analysis of
6 what had happened, is my recollection. It was not his
7 experiment.
8 Q. Anyone else involved at that time?
9 A. I believe that's all.
10 Q. Okay. Let's go ahead and have that marked
11 as Plaintiffs' next numbered, 369.
12 (Plaintiff's Exhibit 369 was marked for
13 purposes of identification.)
14 Q. Now, bacteriology division itself was
15 actually in two places, both in building 1425 and
16 building 1412, correct?
17 A. Yes.
18 Q. And was there a distinction as to what
19 particular tasks were done in one building, as opposed
20 to another?
21 A. Yes. I was trying to remember. There were
22 a few individuals in bacteriology division who worked
23 in -- worked and still work in building 1412, and some
24 of them were working on anthrax, but I believe there
25 were still some people working on Q fever, I think. I'm

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1 not sure about that. And aerosol exposures, for
2 experiments that required them, were performed in
3 building 1412. Even if they involved investigators in
4 building 1425.
5 Q. So would that necessitate some of the folks
6 that were based in 1425 to go over to 1412 to complete
7 their tasks?
8 A. Yes.
9 Q. Was there a difference in the security that
10 was -- and I'm talking about physical security now --
11 that was provided between 1425 and 1412, to your
12 knowledge?
13 A. No.
14 Q. Do you know whether 1412 had any security
15 guards?
16 A. I don't know. I don't know -- no, not to
17 get access. I don't believe so. I don't believe so.
18 Q. Was there -- well, let me just ask you
19 straight out. What did it take from a security
20 standpoint to get into building 1412?
21 A. Well, there was getting into the building;
22 that required, as I remember, some sort of key card, and
23 then getting into the containment suites required an
24 additional access requiring a key card. So not everyone
25 had access to the containment facilities who worked in

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1 1412.
2 Q. Were there any closed-circuit TV's in the
3 containment facility, either in 1425 or 1412?
4 A. I don't believe there were at that time,
5 from when I was division chief.
6 Q. And that changed subsequently?
7 A. It did.
8 Q. After 1998, for example in this 2002 time
9 period, you said you were still managing or directing an
10 experiment there in bacteriology. Did you still have
11 occasion yourself, physically, to go back into the
12 building?
13 A. Occasionally.
14 Q. And what changes did you notice in the
15 security after 2001?
16 MR. TARANTO: Is there a particular time
17 period, counsel?
18 MR. SCHULER: After 2001.
19 A. No, I -- I'm not sure when the cameras went
20 into -- became -- were used and put into operation. I
21 think that was the major difference.
22 Q. What about the changing of access points
23 into the building, did that change?
24 A. I don't know. I can't recall.
25 Q. What about the number of security guards?

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1 Did that change?
2 A. I don't have specific knowledge of that.
3 There are certainly many more guards now. I don't know
4 the time frame at which that changed.
5 Q. Okay. What about the equipment that you
6 had to go through; for example, x-ray or any of that --
7 A. Personnel equipment, you mean?
8 Q. No, to get into the building.
9 A. The screening to get into the building?
10 Q. Yes.
11 A. I don't know what the time frame was when
12 that was instituted.
13 Q. But there is now or at some point there was
14 some type of equipment, x-ray equipment to --
15 A. Now there is.
16 Q. Was there a difference in the change for
17 bag checks?
18 A. I think they do -- well, they go through
19 screening and they go through, you know, whatever they
20 are, metal detectors or -- I'm not sure what they are.
21 Q. Was there any change in the intercoms, for
22 example?
23 A. I think -- not -- we have always had
24 intercoms. I don't know whether they're significantly
25 changed. I'm not in there often enough to know that.

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1 Q. Was there any change in exit inspections,
2 for example, looking into bags or briefcases?
3 A. That goes on now occasionally.
4 Q. Was there any change in access to labs, for
5 example, using a biometric means, for example,
6 fingerprint --
7 A. That's what -- that's been -- that's in
8 place now. I don't know when that, again, was
9 instituted.
10 Q. At some point there was a perimeter fence
11 added as well, correct?
12 A. Yes.
13 Q. Was there ever a time when there was a
14 requirement for a two-person entry into the
15 biocontainment suites?
16 A. Not to my knowledge.
17 Q. At some point there were changes to
18 personnel reliability, correct?
19 A. Yes.
20 Q. Did you have anything to do with that?
21 A. No.
22 Q. Let me ask you, go back to Dr. Ivins.
23 Before 2001, did you ever have access to
24 any of Dr. Ivins' emails that he sent from his computer
25 at USAMRIID?

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1 A. What, specifically, do you mean by access
2 to?
3 Q. Were you ever able to, for example -- other
4 than emails he may have sent to you directly or copied
5 you with, were you ever presented with any emails that
6 he may have sent to others?
7 A. No.
8 Q. Had access to emails that he sent to others
9 from his work computer?
10 A. No.
11 Q. Who was the chief of the SIP program when
12 you were there?
13 MR. TARANTO: I'm sorry, counsel, you said
14 when he was there?
15 MR. SCHULER: In bacteriology.
16 MR. TARANTO: Oh.
17 A. As chief? I don't remember.
18 Q. If -- would it be fair to say that if there
19 was a red flag or a problem that arose with an employee
20 taking antidepressants, antipsychotic medication or
21 having obtained psychiatric treatment, would you have
22 depended upon the SIP people to bring that to your
23 attention?
24 MR. TARANTO: Object to form. You may
25 answer if you can.

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1 A. Could you restate that again.
2 Q. Yes. If one of the people that worked in
3 bacteriology while you were chief had been taking
4 antidepressant medication or antipsychotic medication or
5 had obtained psychological or psychiatric counseling,
6 would you depend on the SIP people to bring that to your
7 attention if there was an issue regarding that?
8 A. If they had that information and they
9 deemed that it had some relevance to access to the
10 suites, then I would assume that they would let me know,
11 since the division chief controlled access to the suite.
12 Q. Okay. And as far as you being a medical
13 doctor is concerned, did you ever have occasion to go
14 over to SIP and look at any of the medical records for
15 any of the folks that worked for you in bacteriology?
16 A. No.
17 Q. The one instance you mentioned where suite
18 privileges were terminated as a result of a medical
19 diagnosis, were the medical records obtained for that
20 person to back that up, to review?
21 A. I don't know the details of that. I think
22 that was something -- I don't know the details of it.
23 My recollection was that that was -- well, I don't know
24 the details of it, but...
25 Q. So you wouldn't know whether the medical

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1 records were obtained or not?
2 A. No.
3 Q. Are you specifically familiar with what the
4 head of SIP did to clear people mentally or
5 psychologically?
6 A. No.
7 Q. Now, prior to 2001, did you ever notice any
8 erratic behavior on behalf of Dr. Ivins?
9 A. No.
10 Q. Ever receive any complaints from others
11 about Dr. Ivins?
12 A. No.
13 Q. Did you ever notice, yourself, whether
14 Dr. Ivins on occasion appeared to be lethargic or prop
15 himself up against a wall?
16 A. I did not.
17 Q. Was Dr. Ivins a high-strung person? Or
18 maybe you don't have an opinion on that.
19 A. No. No.
20 Q. He was not, or you don't have an opinion?
21 A. That's open to interpretation. I'm not
22 sure what high-strung means. Not -- I wouldn't call him
23 that.
24 Q. Okay. Now, have you had occasion, after
25 the anthrax attacks and after the resolution of the

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1 FBI's investigation and the release of their final
2 Amerattacks report, did you have occasion to read that
3 report?
4 A. No.
5 Q. Are you aware, either through other
6 sources, that they concluded that the anthrax used in
7 the attacks came from a flask in Dr. Ivins' suite
8 labeled RMR 1029?
9 A. Yes.
10 Q. Were you familiar with that flask of RMR
11 1029?
12 A. Minimal, if not -- not until then.
13 Q. Is that something that you knew existed
14 when you were there as chief of bacteriology?
15 A. Oh, I'm not sure how far back that goes.
16 We were in the process of -- you know, of producing
17 spores and Bruce was producing spores for exposures.
18 Q. Was that his expertise, really, in
19 producing spores?
20 A. One of them, yes.
21 Q. Can you tell me what his basic expertise
22 was?
23 A. Well, Bruce was a microbiologist who was
24 one of the leaders in anthrax research in the world. He
25 worked on developing improved vaccines against anthrax,

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1 was a large part of what he did, and made many important
2 contributions in that area.
3 Q. And so he -- not just grew spores, but he
4 refined --
5 A. No, no.
6 Q. -- refined the spores and participated in
7 testing, animal testing, to help perfect a vaccine?
8 A. I'm not sure what you mean by refined
9 spores. He produced spores as part of the research to
10 evaluate vaccines and treatments.
11 Q. And that's basically what he was focused on
12 for many, many, many years, right?
13 A. For some years. I wouldn't say many, many,
14 many years. Not most of his career, that's for sure.
15 Q. Well, what else had he done?
16 A. Well, the production of spores is a minor
17 part of the entire research effort. The research effort
18 was in trying to develop new vaccines.
19 Q. Maybe you misunderstood my question. My
20 question was, he was involved in the vaccine effort for
21 many, many, many years.
22 A. Correct, yes.
23 Q. I didn't mean to isolate just the spores.
24 A. Right.
25 Q. And to your knowledge, did that program

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1 appear to be working well, the vaccine program that he
2 was working on?
3 A. Yes.
4 Q. Now, after the anthrax attacks of 2001 and
5 after the FBI report ultimately was published, we all
6 know Dr. Ivins committed suicide, I think in 2008.
7 A. Um-hmm.
8 Q. And was determined by the FBI to be the
9 individual who was the anthrax mailer, okay?
10 Did you have occasion, outside of anybody
11 with the FBI, to discuss the merits of that conclusion
12 with anyone?
13 A. Yes.
14 Q. And who might you have discussed that with?
15 A. Probably everybody in the division.
16 Q. Okay. And do you have an opinion, a
17 personal opinion, as to whether or not Dr. Ivins was the
18 anthrax mailer?
19 A. Yes. I don't know who the anthrax -- who
20 sent the letters.
21 Q. And so you're not convinced that it was
22 Dr. Ivins, then.
23 A. No.
24 Q. Are you -- do you believe that the science
25 that pointed to the RMR 1029 flask was accurate and that


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1 the source of the anthrax was from USAMRIID?
2 A. No.
3 Q. And why don't you believe that that's
4 accurate?
5 A. I haven't read the Institute of Medicine
6 report, but I did hear the press conference describing
7 the conclusions, and it's my understanding from the
8 conclusions that there is no definitive evidence --
9 definitive evidence -- that the spores that were in the
10 letters or the -- or from the individuals who deceased
11 came from RMR -- whatever it was, 10 -- whatever it is.
12 Q. 1029?
13 A. 1029. It could have, but -- that's my
14 understanding of the conclusion.
15 Q. And outside of that -- and that's sort of
16 the basis for your -- feeling that --
17 A. Yeah. I mean, they went through and did
18 extensive analysis of what was in RMR 1029 -- did some
19 analysis of it, I should say, but there is a certain
20 statistical probability that -- I think, again, from my
21 understanding, not having seen the data or anything
22 close to the data, the most definitive aspect of it is
23 that what came out of some of the patients was the
24 strain, the so-called Aims strain, and I think that's
25 the only definitive evidence.

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1 RMR 1029 came from culturing the AIMS
2 strain, and the question of whether that is the source
3 is -- is, in my view, far, far, far from being proven to
4 be the source of what came out of any patient. And the
5 fact that it came from Aims suggests that it could have
6 been derived from anyone -- from someone else culturing
7 AIMS. It derived from that, but it could have come from
8 someone else. Came from that on one occasion and it
9 could have come from another occasion.
10 Q. What about -- and you didn't read the
11 report, the Institute of Medicine report of the American
12 Academy of Science?
13 A. No. I read something about it in the
14 newspaper and some of the science magazines, but I
15 haven't read the report.
16 Q. What about some of the circumstantial
17 evidence, did you read anything about the circumstantial
18 evidence against Dr. Ivins?
19 A. Just in the newspapers. No.
20 Q. Was there anything that you read that
21 surprised you about Dr. Ivins that you were -- didn't
22 seem to fit with your image of who he was?
23 MR. TARANTO: Object to form. You may
24 answer if you can.
25 A. We know what we look at and what we know,

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1 and the rest of it, we don't know. I mean, I don't know
2 that -- so, you know, within that context or that
3 framework, you know -- I know what I read in the
4 newspapers, but -- you know, that's not, you know, my
5 experience with him, but my experience with him is on a
6 certain level, so...
7 Q. What about the technical aspects of it?
8 The FBI concluded that Dr. Ivins was in his laboratory
9 at night without, in their view, a proper explanation of
10 why he was there for periods of hours before each
11 mailing, and they believe that he used a lipolyzer and
12 a speed vac that was present there in the suite to dry
13 the anthrax into powdered spores, if you will. 
14 A. Um-hmm.
15 Q. What about the technical aspects of it?
16 And you're technically, I guess, not a bacteriologist,
17 correct?
18 A. Correct.
19 Q. But you have worked for a long time in the
20 bacteriology area.
21 A. Um-hmm.
22 Q. What about the technical aspects of that?
23 MR. TARANTO: Object to the form of the
24 question. You may answer if you can.
25 A. I don't know enough about the technical

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1 aspects of -- I mean, I know what other people have said
2 and their beliefs, but I certainly don't have enough
3 knowledge about whether or not it would be possible to
4 produce material with such equipment. It's certainly
5 not something that was within my experience.
6 Q. Okay. What about -- do you have an opinion
7 as to whether or not Dr. Ivins would have had the
8 knowledge to accomplish those tasks?
9 A. I don't -- I don't believe he had any
10 experience doing that. That's not the kind of work that
11 we did -- that he did that I was aware of. Or that
12 anybody did.
13 Q. Now, after the anthrax attacks in 2001 --
14 well, let me ask you this: How did you first get notice
15 that these attacks had occurred?
16 A. I think I heard about it on the news. I
17 was out of town, and that's how I heard about it.
18 Q. And did you get involved right away in --
19 in looking into this?
20 A. I wasn't, you know, tasked with getting
21 involved in it. There were some -- when I got back -- I
22 mean, I wasn't called back, for example. So I was not
23 involved in -- I think I attended one meeting where
24 there were just people on anthrax called to discuss what
25 their thoughts were about it.

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1 Q. I read somewhere where you talked with Bob
2 Stevens' doctor in Florida?
3 A. I don't know if it was -- I talked to -- I
4 can't remember his name; the other patient in Florida.
5 I don't think it was -- I don't think that was the same
6 doctor. The Cuban -- the man who survived.
7 Q. Right.
8 A. I forget his name. Cuban-American, I
9 think. And I talked with his doctor.
10 Q. His doctor. You didn't talk with Dr. Larry
11 Bush, then, the infectious disease doctor for --
12 A. I don't think so.
13 Q. -- Robert Stevens.
14 A. Right. I don't think so. That's right,
15 that was Bush that was his doctor.
16 Q. But you didn't talk with Dr. Bush?
17 A. I don't believe I did. I think it was CDC
18 who was predominantly involved. This was -- they were
19 doing the investigation.
20 Q. Do you recall a discussion with a physician
21 for the other gentleman?
22 A. Yes.
23 Q. And what was said?
24 A. I was interested in finding out as much as
25 I could about the disease and his symptoms and his

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1 treatment and recovery.
2 Q. Had he already been diagnosed at that
3 point?
4 A. Yes. He had recovered.
5 Q. So this was after --
6 A. This was after.
7 Q. After he was diagnosed and had been given
8 the Cipro and recovered.
9 A. Correct. I don't remember the details of
10 his treatment now, but...
11 Q. Do you know whether Dr. Ivins kept working
12 stocks of anthrax in both building 1412 and 1425?
13 A. I do not.
14 Q. Was Dr. Ivins a person that frequently
15 would work at night, to your knowledge?
16 A. I don't know.
17 Q. Did you know a Maura Lindscott?
18 A. Yes.
19 Q. And she worked in the bacteriology
20 division, I think, a summer job initially as an intern
21 and then came back and worked a couple of years?
22 A. I think that's right.
23 Q. Did you have occasion to discuss Dr. Ivins
24 with her, any problems that she may have had with him?
25 A. No. Not that I recall.

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1 MR. SCHULER: Let's take a break. We have
2 been going for a while.
3 THE VIDEOGRAPHER: Off the record at 10:35.
4 (Brief recess.)
5 THE VIDEOGRAPHER: We're back on the record
6 at 10:47.
7 BY MR. SCHULER:
8 Q. Dr. Friedlander, were you aware of the fact
9 that after the 2001 anthrax attacks, that there was a
10 team from the Inspector General that came into USAMRIID
11 to do an inspection, and then, oh, I guess about six
12 month or so later, a team from the Sandia National
13 Laboratory?
14 A. No.
15 Q. So you never talked to anyone on either of
16 those teams?
17 A. Not that I remember.
18 MR. SCHULER: That's all the questions I
19 have.
20 MR. TARANTO: I hate to ask for a break,
21 but if we could just have a brief one just to confer
22 about a couple of things.
23 THE VIDEOGRAPHER: Off the record at 10:48.
24 (Brief recess.)
25 MR. TARANTO: We can go back on the record.

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1 THE VIDEOGRAPHER: We're back on the record
2 at 11:00 o'clock:
3 EXAMINATION BY MR. TARANTO:
4 Q. Dr. Friedlander, I'm going to have marked
5 as the next exhibit -- I think we're at number 91 for
6 the defendant. It is a March 9th, 2011 memorandum for
7 the record, declaration, from the U.S. Army Medical
8 Research Institute of Infectious Diseases, USAMRIID, the
9 chief of the human resources office, and attached to it
10 is what purports to be documents from the working
11 personnel file of Dr. Ivins, consisting of personnel --
12 I'm sorry, performance evaluations. The Bates stamp
13 range on the document is, for the record, is Army
14 02-011114 through 11198.
15 (Defendant's Exhibit 91 was marked for
16 purposes of identification.)
17 Q. Dr. Friedlander, while you were chief of
18 the bacteriology diagnosis, did you have any involvement
19 in performance evaluations for Dr. Ivins?
20 A. I believe so.
21 Q. And were you at any time his senior rater?
22 A. Yes.
23 Q. And can you explain what that is, a senior
24 rater?
25 A. The government system at that time, and I

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1 think still now, has a rating system for evaluating the
2 performance of the employees, and there is a rating
3 scheme consisting of the immediate supervisor, called
4 the rater, and then the senior rater, who rates -- who
5 provides additional comment and evaluation in addition
6 to that other rater.
7 Q. This document from -- and I'll just use the
8 last two digits -- from pages 16 through 39, has a
9 number of entries by the senior rater, who is identified
10 as you?
11 A. 16?
12 Q. Yes. 1116 through 11139. Actually, the --
13 A. Oh, okay.
14 Q. So that I'm going to ask you to look at
15 several of the pages in here, and just so you won't have
16 to memorize these long page numbers, I'm going to go
17 ahead and write them down and say them into the record
18 and ask you to review, in particular, those pages.
19 They're 1116; 11120, 11125, 11132 and
20 11139. And I have written them all down on a piece of
21 paper so you won't have to memorize the numbers. And
22 there may be some from you after that date; I'm -- or
23 after that page; I'm not certain. But could you look
24 through those performance evaluations that you gave
25 concerning Dr. Ivins, as senior rater, first of all?

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1 A. Yes. Yes. Okay, look through them all?
2 Q. Yes.
3 A. Yes, okay.
4 Q. Do you recognize those as being performance
5 ratings that you gave concerning Dr. Ivins through 1998?
6 A. Yes.
7 Q. And in general, can you tell us what your
8 performance ratings were for Dr. Ivins during that time
9 period that you acted as senior rater.
10 A. Right. I gave him the highest performance
11 rating each of these times.
12 Q. And if you could summarize for us what
13 findings or comments or attributes did you make
14 concerning Dr. Ivins' performance.
15 A. Well, it's consistent with my memory that
16 he was highly competent and very conscientious and made
17 significant contributions to the anthrax research
18 program, focused mainly on vaccines.
19 Q. At page 11115, there is also comments that
20 are made by, I think, the rater, rather than a senior
21 rater. The rater at that point was George W. Anderson,
22 Jr.
23 A. Yes.
24 Q. The rating period is through June 30th of
25 1994, and he mentions in part five values, candor,

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1 competence and integrity. In integrity, it states,
2 "Maintains the highest standards with superiors and
3 subordinates."
4 What was your experience in that regard?
5 A. I would agree with the terms.
6 Q. And if you could also look at the comments
7 that are made concerning candor and competence. What
8 was your experience compared to that?
9 A. Yeah, I think Bruce, as I said, was one of
10 the prominent researchers on anthrax and he was an
11 independent investigator who developed novel and
12 interesting ideas about how to go forward with vaccines
13 and was very conscientious and his notes were exemplary
14 and, you know, he was just a highly competent
15 researcher.
16 Q. At any time prior to the anthrax letter
17 attacks, did you have any concerns about Dr. Ivins
18 having access to bacillus anthracis or working in the
19 biocontainment suite?
20 A. No.
21 Q. Dr. Friedlander, I'm next going to show you
22 a document that we will have hash as Defendant's Exhibit
23 92. It is a memorandum or a document that says
24 "Received from Dr. Art Friedlander," dated 22nd August,
25 2008, entitled Impressions of Bruce Ivins. The Bates

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1 number on the document is Army 02-010395.
2 I'll ask the court reporter to mark it.
3 (Defendant's Exhibit 92 was marked for
4 purposes of identification.)
5 Q. Could you read the second -- aloud the
6 second paragraph of it?
7 A. "I always found Bruce to be --"
8 MR. SCHULER: Did you establish that he
9 wrote it?
10 MR. TARANTO: I'm sorry. Good point.
11 Q. Are you familiar with this statement, or
12 document?
13 A. Yes.
14 Q. And can you please identify it for us?
15 A. I'm not sure of the context in which this
16 was written or at whose request, but it looks -- I don't
17 see a signature here, but it looks as if this was
18 something that I did, and it's -- again, I don't
19 remember the context in which this was written.
20 Q. Timewise, this is shortly after --
21 A. 2008.
22 Q. This is shortly after Dr. Ivins' suicide,
23 his death.
24 A. Oh, okay.
25 Q. Do you recognize this as being impressions

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1 that you gave concerning Dr. Ivins?
2 A. Yes.
3 (Discussion off the record.)
4 BY MR. TARANTO:
5 Q. The second paragraph reads, "I always
6 frowned Bruce to be very cooperative, scientifically
7 interested and helpful. He was always congenial and
8 interested in discussion things, scientific and
9 otherwise. He was eager to please and was a great help
10 in sharing his expertise and knowledge of anthrax," end
11 quote. Would that still be your impression today?
12 A. Yes.
13 Q. And in the third paragraph, you say, quote,
14 "The idea that he would be dangerous to others or to
15 himself absolutely never entered my mind during that
16 time. I never had any indication that he was mentally
17 unstable or ill; rather, he was cheerful, upbeat, joking
18 and engaging."
19 Was that your assessment at that time?
20 A. Yes.
21 Q. At the end, in the last paragraph, you
22 write, "Nevertheless, Bruce carried out his
23 responsibilities and scientific work earnestly,
24 carefully and with great expertise."
25 Do you have any difference in view on that?

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1 A. No.
2 Q. Dr. Friedlander, I would like to show you
3 what we marked yesterday as Defendant's Deposition
4 Exhibit 90.
5 (Proffers document to the witness.)
6 For reference, the Bates stamp number is
7 Army 02-010387 through 388. It's entitled U.S. Army
8 Medical Research Institute of Infectious Diseases,
9 Reference Material Receipt Record.
10 Do you recognize the document?
11 A. Yes.
12 Q. And can you tell us what that is,
13 Dr. Friedlander?
14 A. I believe it's a record of the material
15 that Dr. Ivins had; specifically, this flask 1029, and
16 the inventory of -- and disposition of the material at
17 different times after it was produced.
18 Q. And what do you mean by disposition?
19 A. The amounts of material that were taken
20 from the flask and -- indicating its disposition, the
21 date, and in some instances to whom it went -- it was
22 delivered.
23 Q. And what entries -- for the period prior to
24 October of 2001, to where was the 1029 material sent?
25 A. Well, according to these records, it was

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1 sent outside the institute to Covance, to -- Rick
2 Lyons --
3 Q. Is that University of New Mexico?
4 A. University of New Mexico in Albuquerque.
5 To Batell. And I think those were the places that it
6 was sent outside of the institute that I can see here.
7 Q. And --
8 A. And there is someone else -- I don't know
9 who this individual is, Peter -- looks like Peter
10 somebody.
11 Q. And right below that, is that --
12 A. Right below Peter. I can't make that out.
13 Oh, BioPort. I'm sorry.
14 Q. So that's another laboratory?
15 A. Correct.
16 Q. And is Dr. Ivins tracking the amounts?
17 A. Yes.
18 Q. There is an entry on the first page after
19 the reference to 1029 in which it lists supplier?
20 A. Yes.
21 Q. And can you -- well, it says Dugway Proving
22 Ground, and USAMRIID bacteriology diagnosis. What does
23 that mean?
24 A. So far as I know -- and I was not involved
25 in producing it -- but this flask was composed of

1 material that was produced at Dugway Proving Ground, as
 2 well as at USAMRIID, and it was combined into this -- to
 3 produce the components of the flask.
 4 Q. And you're saying that based upon the
 5 record entry, rather than your personal knowledge of its
 6 preparation?
 7 A. Yes. I mean, I was aware that we were
 8 producing spores so that we would have sufficient
 9 amounts of a particular lot of spores that could be used
 10 over an extended period of time, the purpose of which
 11 was to use the same challenge spores in subsequent
 12 experiments so that you would be comparing -- if you
 13 were comparing one vaccine to another over time, you
 14 would have the same spore preparation that you were
 15 using, and that was the reason for producing a larger
 16 amount, rather be producing it each separate time.
 17 Q. At USAMRIID, prior to the anthrax letter
 18 attacks, were unauthorized personnel allowed into the
 19 BSL 3 biocontainment suite?
 20 A. No.
 21 Q. What was there to keep people out?
 22 A. Well, everyone -- in order to get access,
 23 you needed a card to get access, I believe, in the
 24 building and then additional access to get into the
 25 containment suites.

1 Q. And for the bacteriology division, were its
 2 working stocks of anthrax, were they kept in a
 3 biocontainment suite or somewhere outside the suite?
 4 A. In the biocontainment suite.
 5 Q. Are you familiar with the Centers for
 6 Disease Control and NIH guidelines on biosafety in bio
 7 -- in microbiological and biomedical laboratories?
 8 A. Yes.
 9 Q. And the fourth edition that was from 1999
 10 and in effect during the anthrax letter attacks?
 11 A. Yes.
 12 Q. Did the practices at USAMRIID concerning
 13 anthrax comply with that?
 14 A. Yes.
 15 Q. In terms of handling anthrax, how did the
 16 practices at USAMRIID compare to what was required by
 17 the BMBL.
 18 A. They were actually more stringent in terms
 19 of the laboratory containment that was required for
 20 working with some strains of anthrax. USAMRIID's level
 21 of containment was higher than what was stipulated in
 22 that document.
 23 Q. And for some anthrax work, the BMBL didn't
 24 require containment at a BSL 3 level?
 25 A. Correct.

1 Q. It would be at what level, then?
 2 A. At the next lower level down, BSL 2.
 3 Q. All right. And with work at a BSL 3 level,
 4 is there a tighter access, or security?
 5 A. Absolutely.
 6 Q. For non-aerosol work and for work with
 7 animals, did the BMBL prescribe biocontainment 3 or 2?
 8 A. That document states that for rodent work,
 9 that it could be -- for rodents, I think that's the term
 10 they use, that BSL 2 was acceptable or was the level
 11 that it should be contained at, and to my knowledge,
 12 that has never been the case at USAMRIID; it's always
 13 been at BSL 3.
 14 Q. At yesterday's deposition there was a
 15 reference to a spill incident, and from, I think, 2008
 16 involving Dr. Ivins and involving a Stern strain of
 17 anthrax. Can you tell us what Stern is?
 18 A. Stern is a strain of bacillus anthracis
 19 named after Max Stern which was developed in the 1930's
 20 in South Africa. It was determined to be attenuated,
 21 which is to say it lacks full virulence, so that it
 22 doesn't kill animals the way typical anthrax does.
 23 Because of these properties, of this
 24 property, it has been used since that time as a vaccine,
 25 a live spore, attenuated vaccine, in domesticated

1 animals throughout the world, and continues to be used
 2 to this day.
 3 Q. While you were head of bacteriology, were
 4 there any -- aside from the BMBL, did the Army have any
 5 biosafety regulations?
 6 A. I believe that -- yeah, they did. They
 7 did.
 8 Q. Is that the Army regulation 28569?
 9 A. I'm not familiar with it. I don't remember
 10 the number of it, but, yeah.
 11 Q. Do you recall whether or not USAMRIID was
 12 in compliance with the Army regulations concerning
 13 handling anthrax?
 14 A. To my knowledge we were, yes, indeed.
 15 Q. Dr. Friedlander, I'm going to show you what
 16 was marked as Plaintiff's Exhibit 103 to Dr. Andrews'
 17 deposition. It is an email from Dr. Patricia L. Worsham
 18 dated November 21st, 2001. The subject is Staff
 19 Feedback on IG Report. The Bates numbers on this are
 20 Army 03004017 through 19, a three-page document.
 21 Dr. Friedlander, do you recognize this
 22 email from Dr. Worsham, who you mentioned earlier, who
 23 was in the bacteriology division?
 24 A. I don't recognize the details of it, but I
 25 certainly know the people involved.

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1 Q. All right. Could you take time to read --
2 not aloud, but just to review the contents of what
3 Dr. Worsham says.
4 A. Yes, okay.
5 Q. If I could just see that momentarily.
6 A. (Proffers document to Mr. Taranto.)
7 Q. Doctor, the statements and comments that
8 Dr. Worsham made are in numbered paragraphs, except for
9 the first and last paragraph. Can you please tell us
10 what your own views were at that time concerning those
11 items?
12 MR. SCHULER: Object to the form. You can
13 go ahead.
14 Q. You can answer.
15 A. This appears to be in response to the IG
16 report, and I would -- from the context here, or from
17 what I can gather without having the report in front of
18 me, I would agree with the suggestions relating to the
19 feedback on this report. I think they're reasonable and
20 would agree with them.
21 Q. Is there anything in there with which you
22 would disagree with Dr. Worsham?
23 A. I don't.
24 Q. Dr. Friedlander, in order for an individual
25 to obtain -- a scientist or somebody coming on new at

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1 USAMRIID -- to obtain access to the BSL 3 suite, are
2 there any immunizations required?
3 A. Depending on the organisms that they're
4 going to be working with, yes. So for anthrax, there is
5 an immunization required.
6 Q. And how long does the immunization process
7 take? Well, if I can go back to the time period prior
8 to the anthrax letter attacks, to work in the BSL
9 suite -- 3 suite, where anthrax was handled, what were
10 the immunization requirements and for what time period?
11 A. I believe the only immunization requirement
12 was for the anthrax vaccine, and from the start of the
13 first dose of the vaccine, it's about six to eight weeks
14 when people were felt to have sufficient vaccination to
15 be allowed to work with the organism. Just on the basis
16 of the vaccine.
17 Q. And is anything done to check the person's
18 immunity before they're allowed to go into
19 biocontainment?
20 A. No. It's a licensed vaccine, and after the
21 three doses -- three initial doses -- it's changed now,
22 but at that time there were three doses, and two to four
23 weeks is my recollection, two to four weeks after the
24 last dose, you're cleared on the basis of the
25 vaccination, to go into the suite, the vaccine

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1 requirement.
2 Q. And the vaccinations are administered by
3 SIP?
4 A. Yes.
5 Q. So every time you go there, you see a
6 medical person until and receive immunization?
7 A. Yes.
8 Q. Before one can work in the biocontainment
9 suites, prior to 2001, was any safety training or other
10 training required?
11 A. I think there was training. My
12 recollection of it was that there were suite SOP's that
13 you had to read and understand, and it depends to some
14 extent -- the answer depends to some extent on the
15 previous experience of the individual.
16 If it were someone who had not worked in a
17 laboratory before, they wouldn't be gaining access to
18 the BSL 3 containment lab, even after six weeks. It's
19 only people who have had -- prior microbiological
20 experience who would also need additional training. So
21 if it was someone who was already a microbiologist, they
22 would still need additional training in terms of how to
23 work within the suite.
24 Q. And with that level of pathogen?
25 A. Yes. And the procedures required to work

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1 with that level of pathogen are different than what they
2 are with lower -- with agents handled at BSL 1 or 2.
3 Q. Did USAMRIID have any type of mentorship
4 program for persons coming new into the biocontainment
5 suite?
6 A. Yes.
7 Q. And can you tell us about that, please?
8 A. Well, when anyone goes into the suite, they
9 basically are under the wing of someone who is
10 experienced, highly experienced in working under those
11 conditions, and they basically continue to work one on
12 one under the direct supervision of this individual who
13 is their mentor, essentially, until that individual
14 feels that they're sufficiently qualified to work
15 independently.
16 Q. During this mentorship period, is the
17 person allowed to work alone and have access to
18 pathogens alone?
19 A. No. Not that I know of, anyway.
20 MR. TARANTO: Dr. Friedlander, that
21 completes our questioning. I have no further questions.
22 Mr. Schuler might have a question or two.
23 EXAMINATION BY MR. SCHULER:
24 Q. I just have a couple of follow-up
25 questions, Mr. Friedlander.

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1 Did you ever actually read the Inspector
 2 General's report?
 3 A. I don't recall. I suspect I did, but I
 4 don't recall.
 5 Q. You don't recall what the findings were or
 6 the recommendations were at this point?
 7 A. Not at this point, no.
 8 Q. Do you know whether the recommendations or
 9 a significant number of recommendations that were made
 10 in the Inspector General's report were put into effect
 11 at USAMRIID?
 12 A. I don't.
 13 Q. You mentioned earlier in your testimony
 14 that you had not read the FBI investigation report
 15 summary of the anthrax investigation; correct?
 16 A. That's correct.
 17 Q. So you would have no idea of the extent,
 18 detail or effort the FBI went through to rule out any
 19 other source of the RMR 1029 anthrax other than
 20 USAMRIID; is that right?
 21 A. No, other than what I read in the science
 22 magazine and the newspaper, and I believe I attended a
 23 meeting where some of this was discussed in Baltimore,
 24 an open microbiology meeting.
 25 Q. So do you know the extent, detail and

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1 effort the FBI went to to eliminate any other source?
 2 A. No.
 3 MR. SCHULER: That's all I have.
 4 MR. TARANTO: We have with nothing further.
 5 MR. MILLER: Are you going to ask him about
 6 reading and signing the deposition?
 7 MR. SCHULER: You have the right,
 8 Dr. Friedlander, to read and sign the deposition or you
 9 can waive the reading and signing. We're batting a
 10 thousand; everyone is wanting to read and sign, so...
 11 MR. TARANTO: And we recommend that you do.
 12 MR. SCHULER: Sure. You have to state on
 13 the record.
 14 THE WITNESS: I wish to read and sign my
 15 deposition.
 16 THE VIDEOGRAPHER: We're off the record at
 17 11:37.
 18 (Deposition concluded at 11:37 a.m.)
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CERTIFICATE OF DEPONENT

1
 2
 3 I hereby certify that I have read and
 4 examined the foregoing transcript, and the same is a
 5 true and accurate record of the testimony given by me.
 6
 7 Any additions or corrections that I feel
 8 are necessary, I will attach on a separate sheet of
 9 paper to the original transcript.
 10
 11
 12
 13 _____
 14 Arthur M. Friedlander, M.D.
 15
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1 State of Maryland
 2 County of Howard, to wit:
 3 I, GEORGE W. TUDOR, a Notary Public of the
 4 State of Maryland, County of Howard, do hereby certify
 5 that the within-named witness personally appeared
 6 before me at the time and place herein set out, and
 7 after having been duly sworn by me, according to law,
 8 was examined by counsel.
 9 I further certify that the examination was
 10 recorded stenographically by me and this transcript is
 11 a true record of the proceedings.
 12 I further certify that I am not of counsel
 13 to any of the parties, nor in any way interested in the
 14 outcome of this action.
 15 As witness my hand and notarial seal this
 16 20th day of June, 2011.
 17
 18
 19 _____
 20 George W. Tudor
 21 Notary Public
 22
 23
 24 My Commission Expires:
 25 March 1, 2015