

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 CASE NUMBER: 9:03-cv-81110-CIV-HURLEY/HOPKINS
4

5 MAUREEN STEVENS, as Personal
6 Representative of the Estate of
7 ROBERT STEVENS, Deceased, and
8 on behalf of MAUREEN STEVENS,
9 Individually, NICHOLAS STEVENS,
10 HEIDI HOGAN and CASEY STEVENS,
11 Survivors

12 Plaintiffs

13 vs.

14 UNITED STATES OF AMERICA

15 Defendant

16 _____/

17

18 The Videotaped deposition of SUSAN WELKOS,
19 Ph.D. was held on Wednesday, November 3, 2010,
20 commencing at 10:28 a.m., at the U.S. Department of
21 Justice, Environmental Torts Section, Torts Branch,
22 Civil Division, 1331 Pennsylvania Avenue, N.W., Room
23 8021S, Washington, D.C. 20004, before George W. Tudor,
24 Notary Public.

25 REPORTED BY: George W. Tudor

1 APPEARANCES:
 2
 3 ON BEHALF OF THE PLAINTIFFS:
 4 RICHARD D. SCHULER, ESQUIRE
 5 Schuler, Halvorson & Weisser, P.A.
 6 1615 Forum Place, Suite 4-D
 7 West Palm Beach, Florida 33401
 8 Telephone: b (6)
 9 Facsimile: 561.684.9683
 10 Email: b (6)
 11
 12 ON BEHALF OF THE DEFENDANT:
 13 JACQUELINE C. BROWN, ESQUIRE
 14 United States Department of Justice
 15 Civil Division, Torts Branch
 16 1331 Pennsylvania Avenue, N.W.
 17 Room 8004S
 18 Washington, D.C. 20044
 19 Telephone: b (6)
 20 Facsimile: 202.616.4989
 21 Email: b (6)
 22
 23
 24
 25 (APPEARANCES CONTINUED on the Next Page)

1 APPEARANCES CONTINUED:
 2
 3 ON BEHALF OF THE DEFENDANT:
 4 LEON B. TARANTO, ESQUIRE
 5 United States Department of Justice
 6 Civil Division, Torts Branch
 7 1331 Pennsylvania Avenue
 8 Room 8004S
 9 Washington, D.C. 20044
 10 Telephone: b (6)
 11 Facsimile: 202.616.4473
 12 Email: b (6)
 13
 14 ALSO PRESENT: HANS JORGENSEN, Videographer
 15
 16 PAUL R. WELLONS, ESQUIRE
 17 Office of General Counsel
 18 Federal Bureau of Investigation
 19 935 Pennsylvania Avenue, N.W., PA 400
 20 Washington, D.C. 20535
 21 Telephone: b (6)
 22 Facsimile: 202.220.9341
 23 Email: b (6)
 24
 25 (APPEARANCES CONTINUED on the Next Page)

1 APPEARANCES CONTINUED:
 2 ALSO PRESENT:
 3
 4 JEFFREY B. MILLER, ESQUIRE
 5 U.S. Army Research and Materiel Command
 6 Office of the Staff Judge Advocate
 7 521 Fraim Street
 8 Fort Detrick, Maryland 21702
 9 Telephone: b (6)
 10 Facsimile: 301.619.7250
 11 Email: b (6)
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 INDEX
 2 Deposition of Susan Welkos, Ph.D.
 3 November 3, 2010
 4
 5 Examination By: Page
 6 Mr. Schuler 7, 99
 7 Ms. Brown 96
 8
 9 Exhibit No. Marked
 10 Exhibit 10 Organizational chart 16
 11 Exhibit 11 Research profile 28
 12 Exhibit 12 Washington Post article dated 51
 13 6/18/09
 14 Exhibit 13 Memorandum 82
 15 Exhibit 14 Memoranda dated 4/7/01 83
 16 Exhibit 15 Memorandum dated 6/13/02 93
 17 With attachment
 18 Exhibit 16 Memorandum Re: Army Biological 93
 19 Surety Program
 20
 21 Defendant's Exhibit No. Marked
 22 Exhibit 1 Army Regulation 70-65 97
 23
 24
 25

Page 6

1 PROCEEDINGS

2 THE VIDEOGRAPHER: On the record, 10:28

3 a.m., Wednesday, November 3rd, 2010.

4 This is the videotaped deposition of Dr.

5 Susan L. Welkos, taken by Richard D. Schuler, Esquire,

6 with offices at 1615 Forum Place, West Palm Beach,

7 Florida.

8 The caption of the case is Maureen Stevens,

9 as personal representative of the estate of Robert

10 Stevens, deceased, and on behalf of Maureen Stevens,

11 individually, Nicholas Stevens, Heidi Hogan and Casey

12 Stevens, survivors, plaintiffs, versus United States of

13 America, defendant, case number 9:03-CV-81110-CIV-

14 Hurley/Hopkins, in the United States District Court,

15 Southern District of Florida.

16 The deposition is being conducted in

17 Washington, D.C. I am Hans Jorgensen, videographer,

18 for All Florida Reporting. The court reporter is

19 George Tudor, also with All Florida.

20 Would counsel please introduce themselves.

21 MR. SCHULER: Richard Schuler, on behalf of

22 the Stevens family.

23 MS. BROWN: Jacqueline Brown, representing

24 the United States, from the Department of Justice.

25 MR. TARANTO: Leon Taranto, also with the

Page 7

1 Department of Justice, for the United States.

2 MR. WELLONS: Paul Wellons, FBI Office of

3 General Counsel.

4 MR. MILLER: Jeffrey B. Miller, for Fort

5 Detrick, Maryland.

6 THE VIDEOGRAPHER: Will the court reporter

7 please swear in the witness?

8 Whereupon,

9 SUSAN WELKOS, Ph.D.,

10 called as a witness, having been first duly sworn to

11 tell the truth, the whole truth, and nothing but the

12 truth, was examined and testified as follows:

13 EXAMINATION BY MR. SCHULER:

14 Q Would you state your name, please?

15 A Susan Welkos.

16 Q What is your address, Dr. Welkos?

17 A Home address?

18 Q Yes, please.

19 A b (6)

20 b (6).

21 Q And what is your date of birth?

22 A b (6)

23 Q Dr. Welkos, you probably heard off the

24 record that my name is Richard Schuler, and I represent

25 the family of Robert Stevens, the first victim of the

Page 8

1 anthrax attacks in 2001.

2 I'm going to be asking you some questions

3 about your position at USAMRIID at Fort Detrick and

4 some other items here today.

5 Have you ever had your deposition taken

6 before?

7 A Yes.

8 Q Okay. And how many times?

9 A I think just once.

10 Q And in what connection was that? You don't

11 have to give me the detail, just --

12 A I think it was in with this -- with the

13 litigations in general for this case.

14 Q Involving this?

15 A Yes, I believe so.

16 Q Was it a statement that was taken, as

17 opposed to a deposition or more formal --

18 A No, it was -- I'm sorry, it was a grand

19 jury. So I get them confused.

20 Q So you testified before the grand jury.

21 A Yes.

22 Q Other than that, have you ever had your

23 deposition taken before?

24 A No. No.

25 Q Let me just tell you a couple of ground

Page 9

1 rules. And the attorneys here may have gone over this

2 with you already, but verbal answers are important, so

3 you have to answer my questions verbally, rather than a

4 shake of the head or a grunt, the way most of us talk

5 in normal conversation. Will you do that for me?

6 A Sure.

7 Q With respect to my questions, if any of

8 them are unclear, would you let me know so I can

9 rephrase them?

10 A Yes.

11 Q And can we assume that if you answer my

12 question, you understood it?

13 A Yes.

14 Q Okay. Dr. Welkos, would you favor me with

15 a short summary of your educational background,

16 training and experience in your chosen field of

17 employment?

18 A I got my undergraduate degree at University

19 of Delaware in biology and my --

20 Q What year? If you would give us the years.

21 A Yes, the year of that was 1972. In 1973, I

22 got a master's degree in medical micro at the

23 University of Florida in Gainesville, and in 1977 I got

24 my Ph.D. Degree, same area, same place, Florida.

25 Q And what was your Ph.D. in?

Page 10

1 A Medical microbiology. I held a
 2 post-doctoral research position at the Uniformed
 3 Services University of Health Sciences in Bethesda from
 4 '77 to 1980.
 5 And that's it for my educational.
 6 Q Okay. And then in 1980, what did you do
 7 after that?
 8 A From 1980 to 1983, I was an assistant
 9 professor at the EVMS, Eastern Virginia Medical School,
 10 in Norfolk, Virginia, and then from there went to Fort
 11 Detrick in 1983, where I have been since.
 12 Q Are you still there at Fort Detrick?
 13 A Yep. Yes.
 14 Q And that's a long time, isn't it?
 15 A Yes.
 16 Q What is your position at Fort Detrick
 17 currently?
 18 A I'm a staff scientist in the bacteriology
 19 division at USAMRIID, the Army Medical Research
 20 Institute.
 21 Q And do you specialize in any particular
 22 organism?
 23 A Yes, bacterial agents. I have worked with
 24 anthrax, B. anthracis, yersinia pestis, and some work
 25 with burkholderia mallei.

Page 11

1 Q Can you spell that last part, just for our
 2 reporter, please?
 3 A Which one? The last name?
 4 Q The last.
 5 A Burkholderia, B-U-R-K-H-O-L-D-E-R-I-A, and
 6 then there's two agents -- it's the agents of glanders
 7 and melioidosis. Mallei and pseudomallei are their
 8 last names, M-A-L-L-E-I.
 9 Q Sometimes in technical -- when we get into
 10 technical depositions or terms, we just have to spell
 11 them out so the record is clear, okay?
 12 A Sure.
 13 Q So I may ask you to do that periodically,
 14 because your field, as we all know, is highly
 15 specialized and deals with kind of unique terminology
 16 in many ways, okay?
 17 A Fine.
 18 Q All right. Now, give me a little history
 19 of your positions at -- I will call it USAMRIID --
 20 starting in 1983, the various grades that you went
 21 through and the titles of your positions.
 22 A Well, I have basically been in the same
 23 position. Started out as a GS 12, and then in
 24 approximately 1989 I went to GS 13, and then --
 25 Q Those are government pay grades?

Page 12

1 A Those are government pay grades, yeah.
 2 Q Okay.
 3 A Government -- I guess Government Service or
 4 General Service or something. But it's the regular,
 5 standard civil service positions.
 6 And then later on at some point went to GS
 7 14, and a few years ago reached GS 15, which is my
 8 current position.
 9 But other than that, I have been research
 10 -- in research, doing, you know, pretty much the same
 11 position; have some supervisory activities with
 12 employees, technical employees, but beyond that, it's
 13 pretty much stayed the same.
 14 Q Okay, and you still do active research; is
 15 that correct?
 16 A Yes.
 17 Q And you have written a number of articles
 18 on the subject of your research over the years.
 19 A Yes.
 20 Q Or published the results of your research
 21 over the years.
 22 A Yes.
 23 Q When did you -- let me ask you this: going
 24 back to when you started in '83, who was your first
 25 supervisor?

Page 13

1 A The chief was a Colonel Hedlund,
 2 H-E-D-L-U-N-D, and then after that there's just a
 3 series of different chairmen and chairpeople. I'm not
 4 sure I can recall all of them, but I can give you a
 5 list if you need that.
 6 Q Well, let me see if I have -- Colonel
 7 Hedlund, which --
 8 A Yes. Now, he actually --
 9 Q What position was he in?
 10 A He was chief of our bacteriology division,
 11 but he left immediately before -- actually, he hired
 12 me, but he was on -- about ready to leave when I came
 13 there, and it was a Dr. Leppla was the full-time chief
 14 by the time I got there.
 15 Q How do you spell the second name?
 16 A L-E-P-P-L-A, Steven Leppla.
 17 Q And how long did Dr. -- is it Dr. Leppla or
 18 Colonel or --
 19 A Yes, Doctor. He's a civilian Ph.D.
 20 Q Okay. How long did he remain as chief of
 21 the bacteriology division?
 22 A Oh, approximately two years, possibly
 23 three, but no longer. It rotates every two to three
 24 years, different people.
 25 Q And who succeeded him? Do you recall the

Page 14

1 names?

2 A Possibly Colonel -- I'm blanking. I'll

3 think of it in a few minutes.

4 Q We can come back to that.

5 A And then there was -- I don't know; I'm not

6 quite sure the order, but there was a Dr. Friedlander,

7 Dr. -- Dr. -- Dr. Adamovicz and also a Dr. Andrews.

8 Q Was he a military lieutenant colonel,

9 Andrews?

10 A Yes, let's see, he was a colonel,

11 lieutenant colonel. I think Dr. Adamovicz at that time

12 had also been a lieutenant colonel.

13 There is one person before that who I'm

14 thinking of right now, but I can't quite pull it into

15 my brain yet. Byrne. I'm sorry, Colonel Byrne was

16 before Dr. Andrews, and then I believe after that came

17 Dr. Adamovicz, and then, let's see, I think -- I'm not

18 sure where Friedlander came, exactly. I think possibly

19 after that -- yes, probably after Dr. Adamovicz, and

20 then our current chief is a Dr. Worsham, and she's

21 our...

22 Q Is she a civilian?

23 A Yes, she's civilian. It's kind of a --

24 been most often military, but there have been a couple

25 of civilians, Dr. Leppla and Worsham.

Page 15

1 Q And you mentioned a Colonel or a Dr. Byrne.

2 Did he eventually go over to the medical division?

3 A I'm not sure. He's -- he has retired since

4 then and has worked at various positions. I think he

5 might have been in a -- I don't know. He was on one of

6 the divisions, but I really don't recall exactly.

7 Q Who was the chief of bacteriology back in,

8 let's say, '99, 2000, 2001 time period?

9 A Right around 2000, Colonel Byrne left and

10 Colonel -- Lt. Colonel Andrews took over. He was there

11 present during 2000, 2001, possibly 2002. So Andrews

12 was the one primarily at that time.

13 Q Okay. I'm going to show you this, and I'll

14 show this to counsel first. It's the Army Bates number

15 02010389; appears to be a flow chart. Did you want to

16 look at that before I show it to her?

17 MS. BROWN: Do you have a copy we can keep?

18 MR. SCHULER: No, sorry. I have only got

19 the one copy.

20 MR. TARANTO: I think that was a previous

21 deposition exhibit. Not to interrupt the deposition,

22 but I could just bring the exhibits in, so that we will

23 know. That might be handy.

24 MR. SCHULER: Sure, that's fine.

25 Q My question to you is, Dr. Welkos --

Page 16

1 A I'm sorry, what is the time period of this?

2 Q Right at the bottom, if you look at it,

3 there's a date that says June of '01. Do you see that

4 down there? I highlighted it.

5 A Just barely, yes.

6 Q It's very small. Took me a while to find

7 the location.

8 Does that appear to be a flow chart of the

9 organization of USAMRIID around the 2001 time frame?

10 A Yes. I see Lt. Colonel Andrews and I see

11 Colonel Byrne, like you said, was apparently in the

12 medical division.

13 Q Okay.

14 A So this looks accurate as far as I can

15 tell.

16 MR. SCHULER: We will mark that as

17 Plaintiff's 10, I guess we're on at this point. I'll

18 just mark it with a pen. Oh, you already have the...

19 (Deposition Exhibit 10 was marked for

20 purposes of identification.)

21 Q And Dr. Welkos, I want to ask you, you have

22 told us what -- when you started there and what

23 positions you have held, and I want to ask you a little

24 bit about how USAMRIID is laid out physically, okay?

25 And if it's changed at some point, if it changed at

Page 17

1 some point, let me know. And I'm going to focus most

2 of my questions so we save some time here, in the --

3 you know, the late '90s to early 2000 time period,

4 okay?

5 So can you tell me during that time period

6 how, physically, USAMRIID was laid out, and in terms of

7 your position and the space that you were in and

8 working in?

9 A It's kind of hard to describe verbally.

10 Q Let me ask you to --

11 A But there were various suites of

12 laboratories, large areas collectively where inside

13 were individual laboratories for the investigators. We

14 had one of such suites --

15 Q Can I stop you for a second? I want to be

16 very basic to start with, okay? Was there one building

17 or two buildings?

18 A One building where I was, but we did have

19 two buildings, one of which was primarily for -- it was

20 constructed so we would be able to do aerosol

21 challenges of vaccinated animals in a safe manner.

22 Q And did the buildings have numbers?

23 A Yes. That building I just mentioned is

24 1412, and the main building where all the research is

25 1425, which is also where I'm located.

Page 18

1 Q That's where your office was?
2 A Yes.
3 Q And are they located next to one another?
4 A Yeah, right across the quad from each
5 other.
6 Q And so those two buildings, basically,
7 housed all of USAMRIID during the late '90s and early
8 2000's.
9 A Yes, as far as I know.
10 Q And you mentioned something about 1412.
11 That was a building where aerosol challenges were done?
12 A Yes, animals -- there was other research,
13 too, I guess, but mainly it was focused on -- it's set
14 up physically to be able to deliver aerosol challenges
15 to treated animals or whatever, to test products.
16 Q When you say aerosol challenges, can you
17 describe those, what that means?
18 A Well, there is a dedicated hood line, a
19 hood being an enclosed chamber where the air remains
20 internal and it's -- you know, would be negative to the
21 outside so it reduces risk. It's set up mainly for
22 safety reasons, of course, and the animals are placed
23 in that chamber and they're exposed to a certain set
24 volume of aerosolized material, and then they are
25 cleaned and taken out and returned to their cages,

Page 19

1 sometimes back in the main building.
2 Q Now, your office was in the other building,
3 you said, 1425, right?
4 A Yes.
5 Q Did you share your office with anyone at
6 the beginning, when you first started?
7 A In the beginning, I shared it for a while
8 with -- I think there was two folks; one was Dr. Ivins.
9 I don't recall; I think I was at my current location,
10 however, at -- yeah, at 2001, which is an individual
11 office.
12 Q 2001 is the office number?
13 A No, I'm sorry, the office number is 18.
14 Q 18. Okay.
15 A My current office, which is also the one I
16 had at that time, I believe. It's an individual --
17 individual office.
18 Q Okay. So over time, you did share your
19 office with Dr. Ivins. Anyone else?
20 A Just very early on. There was one other
21 person; I don't recall who it was. And I -- I
22 subsequently moved to another individual office, and
23 then finally to my current individual office.
24 Q Okay.
25 A I was only with other folks for a limited

Page 20

1 period of time in the '80s, I guess.
2 Q In the '90s and up to and including 2001,
3 approximately how many people worked in the
4 bacteriology division?
5 A Is that including everyone, or PI's or
6 administrative folks or --
7 Q Everyone to start with. Then I want to
8 break it down.
9 A Everyone. Just a very broad estimate, in
10 the 30 to 50 range, including, you know, secretarial
11 and so forth.
12 Q Can you break that down for me? Out of
13 that 30 to 50, how many were scientists?
14 A Approximately seven PI's, approximately --
15 Q When you say PI's, tell me --
16 A A principal investigator, staff scientist,
17 people who lead on the projects, and they would have
18 each possibly two technicians, which --
19 Q Lab techs?
20 A Lab techs; could be either civilian or
21 military. That's ball park. And then other -- there
22 have been some administrative folks.
23 Q Administrative meaning secretarial?
24 A Secretarial and also some post-doctoral
25 fellows would have been working in -- you know, they

Page 21

1 would come and go; I mean, it would be temporary. So
2 the...
3 Q Were the post-doctoral fellows that worked,
4 were they considered government employees or were they
5 --
6 A No, they were employees of the National
7 Research Council. We got all of our post-docs at that
8 time working in conjunction with a program that the
9 National Research Council administered for us in terms
10 of helping us to write, prepare -- or help the
11 post-doctoral candidates prepare an application and be
12 evaluated. They -- you know, the administrative end
13 and the payment end of it. So they weren't considered
14 government employees, they were NRC employees.
15 Q Okay. And in the year 2001, how many
16 post-doctoral fellows were involved in the program?
17 A I haven't the faintest idea. I would say
18 no more than about ten, maybe, at the most.
19 Q Ten?
20 A That's ball park.
21 Q Were some of these post-doctoral fellows
22 from schools from other countries?
23 A Just to a limited extent. We had a certain
24 list of certain countries we could not hire from. I
25 think we might have had some from India, but there were

Page 22

1 certain countries -- the list changed, but there were
2 certain countries that we could not have hired from. I
3 remember there being some Indian ones.

4 Q Do you remember any of the names of the --
5 it's probably going to test your memory, but the
6 post-doctoral fellows in around 2001?

7 A Yeah. I remember a couple of names, but
8 I'm not sure, they might have been -- they might have
9 left before then. One was Yogendra Singh --

10 Q Yogendra?

11 A Yes, I'm sorry. Y-O-G-E-N-D-R-A, Singh,
12 S-I-N-G-H. He's currently in New Delhi University.
13 And Rakesch, Bhatnagar, R-A-K-E-S-C-H, or something
14 like that; Bhatnagar, B-H-A-T-N-A-G-A-R. And there
15 were probably a few others.

16 I had some post-docs I can't -- I'm not
17 sure who was there then. Perhaps Stevens Weeks,
18 S-T-E-V-E-N, Weeks, W-E-E-K-S. I think he would have
19 been -- most likely have been there then. He was a
20 U.S. citizen from -- came over from NCI, National
21 Cancer Institute. The other two fellows were from
22 India that I mentioned.

23 Q That's a pretty good memory for going back
24 that far. I appreciate your recollection.

25 Now, those post-doctoral fellows, did any

Page 23

1 of them work in the anthrax area with you?

2 A Well, mine worked with plague. He was
3 mainly in the lower bubble containment lab. None of
4 them -- the other two may have worked with anthrax, but
5 they were post-docs with another investigator.

6 Q Okay. Would that be Dr. Ivins, or --

7 A They may have been gone by 2000; I'm not
8 sure.

9 Q Would that be Dr. Ivins, the other
10 investigator?

11 A No, that would have been Dr. Leppla.

12 Q Leppla. Okay. And these post-doctoral
13 fellows, did they have -- you mentioned the different
14 containment areas. Are you talking about the BSL
15 levels?

16 A Yes, the biosafety level 2 or the higher
17 level 3.

18 Q Would these post-docs have access to 2 and
19 3?

20 A I believe the two I mentioned probably did,
21 in all likelihood. I'm not sure if they had to use it
22 that much, but they probably would have had access.

23 Q What about level 4?

24 A No. No, level 4 is strictly for the
25 virology program.

Page 24

1 Q I'm sorry, I didn't hear.

2 A Virology program. Our division in,
3 bacteriology has no agents in the BSL 4 level.

4 Q So in bacteriology, the highest level you
5 would have is BSL 3?

6 A Correct.

7 Q Okay. Now, you mentioned that you worked
8 with Dr. Ivins, I guess, on and off, really, from the
9 beginning of your starting at USAMRIID, correct?

10 A Yes, primarily in the '80s, we were working
11 on vaccines, new vaccines together with anthrax. In
12 the '90s, I went more into the -- my research was more
13 in the plague program and certain aspects of the
14 anthrax, and from the early '90s on, I don't recall
15 having any collaborative work with him, but we did work
16 together in the '80s and probably the early '90s in
17 certain vaccines we were looking at in conjunction with
18 the virology folks.

19 Q Let me show you -- and this is just
20 something, frankly, I got off the internet, and it just
21 is kind of a, I guess, a bio of you and shows your
22 publications and so forth, and I took the liberty of
23 checking the ones that involved anthrax that you
24 collaborated on with Dr. Ivins.

25 A Um-hmm.

Page 25

1 Q Let me show this to counsel first.

2 MS. BROWN: (Proffers document to the
3 witness.)

4 Q Let me see it first, because I just need to
5 ask you a couple of questions, and then I'll show it to
6 you, Dr. Welkos.

7 And I just want to get on the record the
8 different publications that you coauthored with Dr.
9 Ivins, and others in some cases, that dealt with
10 anthrax, okay?

11 There is a publication, Postexposure
12 Prophylaxis Against Experimental Inhalation Anthrax, in
13 '93.

14 A Friedlander's, um-hmm.

15 Q That was yourself, Dr. Ivins and about five
16 or six others.

17 A Oh, many others. It was a whole
18 consortium. It was the whole institute that worked on
19 that project.

20 MS. BROWN: I'm just going to object to
21 form.

22 Q Okay. In '92, you and Dr. Ivins and
23 several others published an article, Immunization
24 Against Anthrax with Bacillus Anthracis Protective
25 Antigen Combined with Adjuvants?

Page 26

1 A Yes, and just to interject, often work is
2 published two or three years after it's completed
3 because of the cycle of going through the reviews,
4 going through journals, getting a journal that will
5 accept the materials, so the dates on the publication
6 do not necessarily reflect the activity research
7 period.
8 Q Fair enough. But that is one of your
9 articles, correct?
10 A Yes.
11 Q And then in '91, yourself and Dr. Ivins and
12 another person, the title is Protection Against Anthrax
13 with Recombinant Virus-Expressed Protective Antigen in
14 Experimental Animals. Remember that one?
15 A Yes, and that's the virology one I
16 mentioned.
17 Q And then in 1990, yourself, Dr. Ivins and
18 several others, and the title being Immunization
19 Against Anthrax with Aromatic Compound-Dependent (Aro-)
20 Mutants of Bacillus Anthracis and with Recombinant
21 Strains of Bacillus Subtilis that Produce Anthrax
22 Protective Antigen.
23 A Right.
24 Q Did I pronounce all of those properly?
25 A Close enough.

Page 27

1 Q A-minus, would you give it?
2 A Sure. Absolutely.
3 Q And the other articles that I want to get
4 on the record that you published with Dr. Ivins were,
5 one was --
6 MS. BROWN: Objection to form.
7 Q -- one was in '86, Cloning and Expression
8 of the Bacillus Anthracis Protective Antigen Gene in
9 Bacillus Subtilis?
10 A Correct.
11 Q In '88, another article with Dr. Ivins,
12 Trans -- this one is a tough one -- Transposon, Tn916
13 Mutagenesis in Bacillus Anthracis.
14 A Yes.
15 Q And in '1988, it was just the two of you on
16 this article, you and Dr. Ivins, Recent Advances in the
17 Development of an Improved Human Anthrax Vaccine.
18 A Yes. That was a review article, not a
19 research article.
20 Q Okay.
21 A Yes, that was all, like I said, mainly done
22 in the late '80s, early '90s.
23 Q Just take a look to verify those are the
24 correct articles I highlighted there, and I'll mark
25 that as Plaintiffs' 11.

Page 28

1 MS. BROWN: Counsel, just for the record,
2 it appears that there are some highlighted articles
3 with a check mark and some that are just highlighted?
4 MR. SCHULER: Right.
5 MS. BROWN: Which ones are you referring
6 to?
7 MR. SCHULER: The ones with the check mark.
8 THE WITNESS: The others are plague work.
9 Yeah, Dr. Ivins didn't do any of the plague work.
10 Q Let me ask you this question, just to make
11 a point. Those are a list of the articles that you
12 have published up to date?
13 A Okay.
14 Q Seems to be fairly accurate?
15 A Yeah, I think it's accurate. It's
16 accurate. It's in reverse order. Yep, that's
17 accurate.
18 MR. SCHULER: We will mark that as
19 Plaintiffs' 11.
20 (Deposition Exhibit 11 was marked for
21 purposes of identification.)
22 Q So your career and Dr. Ivins' career at
23 USAMRIID has overlapped, I call it, from basically '83,
24 when you started, until he passed away in 2009?
25 A Yes.

Page 29

1 Q And --
2 A 2008.
3 Q 2008, I'm sorry. And in the course of your
4 working there, did you get to know him fairly well?
5 A I mean, I knew him on seeing him on a
6 frequent basis. We didn't socialize outside of work.
7 Q Okay. So it was just a working
8 relationship, then.
9 A Yes.
10 Q Did you ever go to his house or he come to
11 your house?
12 A I went to his house once when I first got
13 up there. His wife had invited me, as new, to come
14 over for a meatloaf dinner; I remember that.
15 Q So just one time in the roughly twenty
16 years?
17 A Yes, and that was in, like, 1983.
18 Q And you never went back to his house after?
19 A No. We only socialized, if at all, during
20 work events, parties, whatever.
21 Q And -- but would you see him every day at
22 work? Every day that you were there, he was there?
23 A Most likely I would see him in one manner
24 or another.
25 Q How, I guess, physically, how far was your

Page 30

1 office from where his office was?
 2 MS. BROWN: Mr. Schuler, if you would just
 3 clarify when you're talking about.
 4 MR. SCHULER: Good point.
 5 Q In the 2000-2001 time period.
 6 A Just -- just a short distance around the
 7 corner.
 8 Q Walking?
 9 A Yeah, walking distance.
 10 Q And who at USAMRIID would you say knew Dr.
 11 Ivins best in terms of his co-workers?
 12 A During the time he was there, or...
 13 Q Yes, during the time that you were there.
 14 A He did some earlier work with Dr. Mikesell
 15 and Dr. Ristroff. This was before 2000.
 16 Q What years was that?
 17 A Well, from before I got there to -- when he
 18 left --
 19 Q Dr. Michael; M-I-K-E-L?
 20 A Mikesell, M-I-K-E-S-E-L-L. He subsequently
 21 moved, and has since deceased. And then Dr. Ristroff,
 22 R-I-S-T-R-O-F-F, he, again, left quite a number of
 23 years -- both of them left quite a number of years
 24 before 2001. Around 2001, I don't recall exactly.
 25 Probably Dr. Heine, Frank Heine, H-E-I-N-E.

Page 31

1 I'm not sure exactly who he socialized with
 2 most, but, I mean, he socialized a little bit with all
 3 the main folks that were there. He was a very sociable
 4 person. But in terms of being, you know, real close
 5 friends, I'm really not sure.
 6 Q Did he socialize with Mara Linscott?
 7 A She worked for him for a while.
 8 Q Okay. What years did she work for him, if
 9 you recall?
 10 A Let's see. I would say, I'm guessing,
 11 mid-'90s, late '90s. It's been a while.
 12 Q How about Pat Fellows, did he socialize
 13 with her?
 14 A Certainly at parties, group -- division --
 15 department parties. I'm not aware of other times. He
 16 was her main -- she was his main technician --
 17 Q Lab tech?
 18 A -- lab tech, from the time I got there
 19 until -- I think she left USAMRIID a little bit before
 20 2001, I think, or -- I don't know.
 21 Q So she was there from '83 to around 2001?
 22 A Yeah, something like that. But like again,
 23 I'm not really aware of who all might have socialized
 24 with him outside of work.
 25 Q Well, I'm not asking outside of work, now,

Page 32

1 I'm just asking for your observations at work.
 2 A Well, even inside of work. He was kind of
 3 friendly with everybody and he knew people in various
 4 divisions.
 5 Q And if I ask you a question, by the way,
 6 you don't know the answer to, just tell me you don't
 7 know and we will move on. But my question to you was,
 8 at work, from your own observations, who were the
 9 closest people to him, from what you could tell?
 10 A Well, he worked closely with Ms. Fellows,
 11 and I guess for a while Ms. Linscott. I believe he was
 12 -- had a lot of conversations with Dr. Heine.
 13 Q Is Dr. Heine still alive?
 14 A Yes. He's just left -- it was about a year
 15 ago; he's now up in New York somewhere at an institute,
 16 research institute.
 17 Q He's with a company called Research
 18 Institute?
 19 A No, a research institute. I think it's
 20 called Ordway or something. Upper New York State.
 21 Q All right.
 22 A I can't really think of --
 23 Q So Mara Linscott, Pat Fellows, Dr. Heine.
 24 Anybody else that seemed to be one of his better
 25 buddies or closer to him than the others?

Page 33

1 A He knew -- he worked some with a Dr. Greg
 2 Knudson, but again, Dr. Knudson, I believe, is someone
 3 who left quite a bit before then, kind of like the
 4 situation with Dr. Ristroff and Mikesell. Knudson,
 5 K-N-U-D-S-O-N.
 6 Q Where is Dr. Knudson now, if you know?
 7 A Well, he's in Bethesda at, I think, the
 8 U.S. Radiobiological Institute. At least he was the
 9 last I knew about. Still in a government research
 10 position. But I haven't followed him for years, so I
 11 really -- I don't know. He was really gregarious with
 12 a lot of people, and I didn't try to keep track of who
 13 he talked to at all.
 14 Q Did he ever send you emails of a personal
 15 nature?
 16 A I don't recall anything of note that I
 17 would have remembered after ten years.
 18 Q Okay. And when I say that, I mean, you
 19 know, telling you about personal problems outside of
 20 the work environment, that type of thing.
 21 A No. I mean, he might have talked to me
 22 about such things, but I don't recall email stuff. I
 23 was always pretty kind of tunnel visioned in doing my
 24 work, and I kind of made that clear to him. I didn't
 25 socialize a lot.

Page 34

1 Q Okay. And I'm going to assume I know the
 2 answer to this, but I'm going to ask you anyway. Any
 3 emails that he sent to you, have you ever kept copies
 4 of any of those anywhere?
 5 A Not personally. I'm sure the FBI has a
 6 copy of everything I have done or breathed since then,
 7 so you can ask them.
 8 Q Well, I can only ask you in this
 9 deposition.
 10 A No, I didn't save copies of emails.
 11 Q Okay. When I say save copies of emails, I
 12 mean, you know, printed out, hard copies.
 13 A Right. No, I don't have anything like
 14 that.
 15 Q Anything that you have on any of your
 16 computers, whether personal or business, from Dr. Ivins
 17 of any sort that you're aware of that deals with
 18 personal matters, as opposed to --
 19 A Again, I don't recall anything that I would
 20 have remembered over this stretch of time. Nothing at
 21 all consequential or noteworthy that I have
 22 recollection of.
 23 Q Okay. Let me go back to the time that you
 24 were hired in roughly '83 and ask you, in those early
 25 years, do you recall whether there were any particular

Page 35

1 hiring protocols for USAMRIID back then?
 2 A I don't understand what you're --
 3 Q Okay, let me explain a little bit. Whether
 4 there were any type of testing or anything you had to
 5 go through or mental or physical examinations, things
 6 of that nature?
 7 A Well, certainly we had a number of security
 8 investigations, personal investigations, physical,
 9 psychological, you know, we had a whole gamut of things
 10 that, because of the nature of our position, that were
 11 in place back then.
 12 Q Okay. Do you remember specifically what
 13 was done?
 14 A Well, we had to get a background check, the
 15 DHHS --
 16 Q DHHS?
 17 A Yes, Department of Health and Human
 18 Services, done through the CDC. It's called a Security
 19 Risk Assessment. And then the Army added more
 20 investigations just to make sure that the people were
 21 reliable and so forth. One especially was done through
 22 the Department of Army called an SSBI, Single-Scope
 23 Background Investigation.
 24 Q SSDI?
 25 A SSBI. A Single-Scope Background

Page 36

1 Investigation, which involves background checks of, you
 2 know, criminal records, immigration, credit checks,
 3 FBI, or just investigations, and that is done,
 4 actually, every five years and has been done since then
 5 every five years.
 6 Q And that was done, as far as you know, in
 7 connection with your own employment?
 8 A Yes, every --
 9 Q Every five years?
 10 A Yes. Everybody that would be handling a
 11 select agent has the same kind of procedure done, and
 12 it's done every five years.
 13 Q And you know for a fact that this was done
 14 in connection with your employment?
 15 A Yes.
 16 Q Do you know whether it was done with Dr.
 17 Ivins?
 18 A I'm sure it was. I don't know when they
 19 first came in place, but again, he would have been
 20 subject to the every-five-year thing anyway.
 21 Q Any other investigations or protocols
 22 dealing with your hiring or the maintaining of your
 23 employment that you recall?
 24 A Well, internally, we have to go through
 25 physical examinations and --

Page 37

1 Q How frequently is that?
 2 A Yearly.
 3 Q Okay.
 4 A Mainly because we do work in containment,
 5 and we have to receive vaccinations, and so they have
 6 to insure that the people are physically able to handle
 7 that, plus be able to wear the proper protective gear,
 8 respiratory protective gear. So we get checked
 9 occupationally for respiratory capacity and so forth,
 10 and they check us for, like, allergies to gloves, we
 11 have to wear gloves all the time, so they check things
 12 out that will insure that we will be safe and reliable
 13 working in containment. And this has been done ever
 14 since I'm been aware of.
 15 Q Do they take any blood testing to determine
 16 whether anybody is taking drugs or any medicines or
 17 anything like that?
 18 A Yes, they take an annual blood test; it's
 19 part of the yearly physical/occupational -- blah, blah,
 20 the thing we get every year, and again, we get blood
 21 tests for, like, HIV, and we have, of course,
 22 urinalysis screens for drugs.
 23 Q What about psychologically or
 24 psychiatrically, did you have to undergo any type of
 25 examination there?

Page 38

1 A Well, they did -- the doctors did question
2 us and we filled out paperwork and quizzed us about
3 emotional or psychological type issues, again, all just
4 to make sure that they're --
5 Q What doctors did that?
6 A In the medical division. The special --
7 it's called the Special Immunizations Program, and
8 that's part of their medical check. Also a
9 psychological check.
10 MS. BROWN: Mr. Schuler, if you could make
11 sure she is finished with an answer before you go to
12 the next question.
13 MR. SCHULER: Sure.
14 Q I didn't realize I was cutting you off. Go
15 ahead.
16 A This is all in the 2000 time, or are you
17 talking about now also, or --
18 Q I want to talk about through your career
19 starting in '83.
20 A The whole career. Okay, well, this all
21 would apply from then.
22 Q So in the year -- in the year 1999 and
23 2000, for example, there were these medical checks that
24 were done --
25 A Um-hmm. Yeah, it's every year.

Page 39

1 Q -- as far as -- okay. And with respect to
2 security clearances, did you have to have any type or
3 level of security clearance in connection with your
4 work?
5 A I have a Secret clearance, and with the --
6 what they call the Eligible for Top Secret, which
7 mainly just means if some agency wants me to review a
8 classified document for scientific purposes, that I
9 would be allowed to do that. But to get in the
10 containment suites, there is really no specified
11 clearance level. I think everybody has a Secret, but
12 the main thing is that you have to pass the
13 investigations and pass the physical and so forth
14 evaluations. Those are the main criteria.
15 Q Okay. You are aware of the fact that there
16 was an Inspector General inspection of USAMRIID back in
17 late 2001 after the anthrax attacks, correct?
18 A I have been told there was. I don't
19 recall, but...
20 Q Did you speak with any of the investigators
21 yourself?
22 A I don't recall speaking with anyone.
23 Q In the results of that investigation, the
24 Inspector General found numerous instances that
25 required security clearances for individuals had lapsed

Page 40

1 and their five- or ten-year periodic investigations
2 were outdated, and that these individuals did not have
3 their access restricted. Are you aware of that?
4 A No.
5 MS. BROWN: Objection to the form.
6 Q They also found that there was a
7 significant variation in the personnel security
8 investigations of individuals having access to
9 hazardous biological materials. Are you aware of that?
10 MS. BROWN: Objection to the form.
11 A No.
12 Q They found that there was no
13 readily-available current roster identifying
14 individuals and their Social Security numbers with
15 access to various BSL's. Are you aware of that?
16 MS. BROWN: Objection to the form.
17 A No.
18 Q You don't -- you said you don't remember
19 speaking with any of the Inspector General people in
20 late 2001, or you just -- or they didn't speak with
21 you? I just need to --
22 A I don't have a recollection, period.
23 Q Does that mean that they could have and you
24 just don't remember it now, or...
25 A I guess -- I guess yes.

Page 41

1 Q Okay. Back in late 2001, do you recall
2 seeing any of the Inspector General people come into
3 the USAMRIID facility to do their investigation?
4 A I don't recall it.
5 Q Were you working during that time period in
6 late 2001, though?
7 A Yes. There was a time right around 2001
8 when we had to be out of the containment suites so that
9 it could be decontaminated for installation of a new
10 ventilation unit, so around that time we spent a lot of
11 time just cleaning the suite and getting it ready to be
12 taken down for maintenance work. But we were still
13 working, as I recall.
14 Q Do you recall whether, in late 2001, that
15 there were any foreign nationals that had sole access
16 to BSL 3 and 4 labs?
17 A What do you mean, sole access?
18 Q Without having someone else come in with
19 them.
20 A Only if they had received the proper
21 mentorship training and all the proper clearances to
22 enter. They wouldn't have entered by themselves unless
23 they were cleared for that.
24 Q Do you know whether there was any policy in
25 effect that indicated that foreign nationals should not

Page 42

1 have sole access to BSL 3 and 4 labs?
2 A I'm not aware of any such.
3 Q Were there maintenance personnel there in
4 2000 and 2001 that would be involved in cleaning and
5 working around the BSL 2 and 3 labs?
6 A There were maintenance people in terms of,
7 like, if there was equipment repair required. They of
8 course would have to go under the same program we would
9 have to get entry - receive the vaccinations, receive
10 the interviews and investigations.
11 Q And the maintenance personnel, were they
12 government employees or was there independent
13 contractors for maintenance, if you know?
14 A I'm not real sure. I think they were
15 government -- I really don't know. I can't state.
16 Q Okay. Were there any workers that you were
17 aware of at USAMRIID in late 2001 with potential
18 medical problems that may impact their ability to
19 reliably and safely perform their duties who were not
20 screened out or prevented from performing those duties?
21 MS. BROWN: Objection, compound.
22 A Yeah, I'm not aware of...
23 Q Were you aware of any individual back in
24 late 2001 that were suffering from any neuropsychiatric
25 disorders that were not prevented from handling the

Page 43

1 type of organisms we're talking about here?
2 A No.
3 Q Were you aware of anyone back in late 2001
4 who had a history of alcohol dependence, claustrophobia
5 or -- well, why don't we just limit it to those two
6 things -- who were not restricted, but were cleared to
7 work in the various BSL labs?
8 A No.
9 Q Were you, yourself, aware of who was
10 authorized to enter certain BSL labs and who was not
11 authorized, or did you just pretty much deal with your
12 own issues in being able to do that?
13 MS. BROWN: Objection to form.
14 A Pretty much dealt with my own
15 responsibilities.
16 Q So if there was someone who went to a BSL 3
17 lab who was not authorized to do so, that's not
18 something that you would notice or get involved with.
19 A Well, I think I would have noticed it.
20 There were certain people that one saw all the time and
21 knew had been trained. I believe I would have noticed
22 it. Whether I would have known exactly what was going
23 on... but I think we would have noticed it.
24 You just can't walk into those suites.
25 There is usually set people you expect to see, and

Page 44

1 others should not be there. We did have access
2 restrictions and security measures in place, physical
3 security measures.
4 Q Okay. Tell me about the physical security
5 measures. What physical security measures were in
6 place in late 2001? Because I know it changed after
7 that.
8 A Yeah. Well, we still had -- we had a card
9 reader to get in.
10 Q Hold on a second. A card reader, that was
11 at the door?
12 A Like an electronic bar code, a card reader
13 before you can go into the containment, and in what
14 they call the change room inside, which is where you
15 put your clothing on before you go into the main suite,
16 they had a key pad entry, which you have a pin, you had
17 a pin to go in, and, you know, the door would only open
18 if you had the right combination of the card reader on
19 the outside and the key pin entry on the inside.
20 Q Okay. Anything else?
21 A Well, there were cameras in the hallways
22 and general areas. At that time there were not cameras
23 in the room. Now, of course, there's cameras
24 everywhere, but it was -- we had the state of the art
25 anywhere in the nation, and the Army always did things

Page 45

1 above and beyond most other federal labs, so...
2 Q There were about 13 labs in the country
3 back in 2001 that had anthrax stocks; is that right?
4 A I don't know.
5 Q And you're saying that the lab at Fort
6 Detrick had security that was better than or equal to
7 most of those?
8 A In all likelihood, especially the labs that
9 weren't federal.
10 Q Which labs are you familiar with other than
11 the labs at Fort Detrick?
12 A Well, there are -- I haven't been there,
13 but there are comparable labs to ours in Britain, the
14 military research lab there, and I think there is one
15 in Canada, Australia. Those are all government-level
16 labs, so on a plane with ours. I don't know what their
17 physical layout was.
18 Q Well, let me ask you this. Let me ask it
19 this way, then: have you been to any either private or
20 government labs in this country that have anthrax
21 stocks?
22 A Just ones primarily that handle the --
23 what's called the attenuated strain, the lower
24 virulence strain. It's called Sterne. It's available
25 commercially.

Page 46

1 Q And which lab was that? Do you remember
2 the name of the company?
3 A No, this was more recently. I don't
4 remember in 2001. Around that time, I think I had a
5 visit when we were at a conference in England with the
6 Porton Down Biodefense Laboratory, which is a
7 government facility like ours. I don't recall anything
8 about -- I don't recall any specific details about the
9 facility.
10 Q Other than -- and I'm talking about, you
11 know, 2001, now, and earlier. Other than Porton Down,
12 had you visited any other facility?
13 A Not -- no.
14 Q Now, you have mentioned -- I want to go
15 back to some of the things you mentioned earlier. The
16 card reader was actually outside the BSL containment
17 area; is that what you're telling me?
18 A Yes.
19 Q I want to make sure I understand. And then
20 you mentioned the key pad was in the change room?
21 A Yes, the change room where one would take
22 off street clothes and put on suite garb.
23 Q And then the -- you said there were cameras
24 in the hallways, but not anywhere else at that time?
25 A I think so.

Page 47

1 Q Do you know whether the cameras in the
2 hallways were operational or being watched, the
3 monitors for those?
4 A I don't know.
5 Q Were there any rules posted, lab rules
6 posted in the containment areas themselves?
7 A I think there was, but I can't --
8 Q And again, I'm talking about 2001 and
9 earlier.
10 A Yes, yes, I know. That's what I say, I
11 can't recall, but I'm sure there was plenty of signs.
12 There was signage all over the place.
13 Q Do you know whether there was a -- in 2001
14 there was a standard policy for management control of
15 anthrax stocks?
16 A Well, the institute had a central
17 repository of all -- all long-term stocks, low passage
18 number, original stocks. That was in a locked,
19 refrigerated -- walk-in refrigerator, I believe, or
20 other thing that would -- only some certain -- I think
21 it was like two individuals that were allowed to go in
22 there to retrieve materials, and that, of course, had
23 to be accounted for, audit trail on that.
24 Q So there was a policy for management
25 control of anthrax stocks back in 2001.

Page 48

1 A Yes, of all the agents that the institute
2 had. Plus there was an etiologic agent registry where
3 all strains had to be registered.
4 Q And has there been, over time and right up
5 to the present date, a problem with tracking inventory
6 of pathogens at USAMRIID?
7 A I'm not aware of any problem.
8 Q Do you know a Colonel Mark Kortepeter,
9 K-O-R-T-E-P-E-T-E-R?
10 A He was there for a while.
11 Q What was his role or what was his position
12 at USAMRIID?
13 A Something up in the command office. I
14 don't know if he was a deputy commander, or -- I'm not
15 sure.
16 Q Was there a problem in June of 2009 with
17 tracking the stock of pathogens at USAMRIID, if you
18 know?
19 A June, 2009? Is that the thing with four
20 vials of a virus or something?
21 Q I have to ask you.
22 A There was a few vials -- I think it ended
23 up being a transcriptional error, where they couldn't
24 account for four vials of a Venezuelan equine
25 encephalitis virus, I think, but it wasn't -- it was

Page 49

1 resolved. I don't recall exactly what happened, but it
2 wasn't a major issue.
3 Q I'll show you this. This, again, is
4 something that came to light fairly recently that --
5 and if you don't know, you know, if you don't have the
6 facts yourself, just tell me, but let me show this to
7 counsel.
8 MS. BROWN: Thank you. Do you want it
9 back?
10 MR. SCHULER: She can have it.
11 Q Let me just ask you, Dr. Welkos, were you
12 familiar with that issue of the additional -- I don't
13 have the number in front of me -- was it 9,200
14 pathogens that were discovered at some point?
15 A Yeah. Yeah, when the institute conducted
16 an institute-wide inventory, and actually, that -- we
17 were afraid that it was just -- there's hundreds of
18 thousands -- not hundreds of thousands, but there's
19 thousands of aliquots of pathogens, of organisms there,
20 and we do a very good job of keeping track of them.
21 This is just -- you know, there's probably
22 -- I don't know where they got the 9,200 from, but we
23 have a very detailed inventory system now, but the
24 whole concept, of course, of having a static inventory
25 of a biological organism is very challenging and

Page 50

1 probably meaningless to a certain extent, because of
2 course it's not counting pills; you're dealing with
3 organisms that are microscopic, that one colony, one
4 organism is all you need, ten milliliters or five
5 gallons, you can always take the one and get whatever
6 you need from it. They grow, they die, they replicate,
7 so the concept of inventory, of static inventory is
8 almost meaningless. But we do -- we have always
9 tracked it as well as possible, and now, of course, we
10 have a very intensive inventory system that tracks the
11 organisms from cradle to grave.

12 But again, it's -- it's not clear beyond a
13 certain level of how much the inventory helps in terms
14 of keeping track of -- of the organisms.

15 Again, our program is mainly up front,
16 where we rely on heavily -- investigations of people
17 that are going to use them, or their reliability, their
18 training, their security clearances. There is no -- if
19 somebody was really intent on taking some something, it
20 would be probably nearly impossible to prevent that,
21 just because, again, it's a microscopic organism; they
22 multiply and live, die, and in my -- we have always
23 done an excellent job of keeping track of what we have
24 and taking care of it in a safe manner.

25 So, you know, I don't know what the paper

Page 51

1 writes up, but this is what we have, and we have an
2 excellent system now; again, as far as it can go.

3 Q You would agree with me that, and you just
4 said it, I believe, that probably personal -- personnel
5 reliability is really a cornerstone of providing a safe
6 environment to protect the public in terms of the
7 operations of a lab like USAMRIID, correct?

8 A Correct.

9 Q And I give you this article, and since we
10 have discussed it, we will mark it as plaintiffs' 11.
11 Twelve.

12 (Deposition Exhibit 12 was marked for
13 purposes of identification.)

14 Q And this article that I handed you to look
15 at, looks like Washington Post, dated June 17th (sic)
16 of 2009, it talks about the accuracy of a data base.
17 Was there a data base for accounting for pathogen stock
18 back in 2000 and 2001?

19 A Just the registry of the long-term stocks
20 that the institute held that I mentioned before.

21 Q Okay. What changed after 2001 in terms of
22 keeping track of the pathogens there at USAMRIID?

23 A Well, over a course of years they developed
24 the AIMS system, Agent Inventory Amount, which again,
25 provides documentation of the number of vials and

Page 52

1 access to the vials in terms of paper flow from when
2 it's -- a vial is accessed, what's done with it, when
3 the culture is ultimately destroyed, so it's a -- it
4 provides a trail from cradle to grave.

5 Q And that type of keeping track of the
6 organisms wasn't done prior to 2001, correct?

7 A To that extent. But again, what this
8 accomplishes is not clear, besides taking a tremendous
9 amount of time and paper, money and effort. But no,
10 that level wasn't present in 2001. It wasn't present
11 anywhere.

12 Q And prior to 2001, the lab did not conduct
13 an inventory every year, as it does now, correct?

14 A I don't know if they inventoried the
15 long-term stocks or not. Again, that was taken -- that
16 was out of our -- that was in another, you know --
17 taken care of by whoever was authorized to do that.

18 We each individually had our own
19 inventories and records -- and records -- and record
20 systems. At that time, provision wasn't required for a
21 centralized inventory system. The policies indicated
22 that repository stocks were centralized, but individual
23 investigators' working stocks were not centralized and
24 they were -- they could be maintained at the
25 investigator level.

Page 53

1 Q There is a paraphrase here that says that
2 -- and I'm going to ask you whether you agree or
3 disagree with this -- that scientists who have worked
4 at the lab said that in the past, departing scientists
5 turned over their logbooks to their successors, but
6 records were sometimes incomplete or complex. As
7 generations of scientists parsed through, the knowledge
8 of what was in the freezers was lost. With a
9 comprehensive data base, every sample is now tracked
10 until it is destroyed or transferred. Do you agree
11 with that summary?

12 A I have no basis for judging it.

13 Q Now, this Colonel Kortepeter says that in
14 -- "Since 2001, USAMRIID has imposed multiple layers of
15 security to check people entering and leaving." What
16 has changed in that regard since 2001?

17 A The main structure that has been in place
18 before then, they have more guards, I think they're
19 armed now; they have more physical security blockades
20 for the whole institute and the post. They have --

21 Q What are you referring to there?

22 A Well, they took away all ability to, like,
23 park anywhere. We have a great, big concrete box. We
24 have a central entry point. Where it used to be you
25 could go in two entry points, now we just have one, an

Page 54

1 isolated building, and again, it's maintained by a
2 guard -- by a larger guard system, I guess, and they're
3 allowed to be armed now.

4 In terms of internally, it's primarily just
5 that we have a camera in all the laboratories, which of
6 course has been a very huge expense, but they have a
7 camera in every laboratory which is 24-7, operates
8 24-7.

9 Q So those are some of the -- those are
10 things that have changed since 2001? What about
11 personnel or personnel reliability or security? Has
12 anything changed, to your knowledge, since 2001 in that
13 area?

14 A Well, they have added something called
15 biosurety, which again is just sort of a more focused
16 --

17 MR. SCHULER: Can I stop you for a second?
18 (Discussion off the record.)

19 Q Let me go back to the question that I was
20 about to ask you, and that has to do with the personnel
21 security, and my question is, how has that changed
22 since 2001, to your knowledge?

23 A Well, there is -- something called
24 biosurety, which, again, it's not clear that this
25 really is an added benefit to what we had in place, but

Page 55

1 they thought it was necessary.

2 It just means a more focused look, I guess,
3 at the reliability, what they call the reliability,
4 trustworthiness. It's pretty much what we had before,
5 but there are additional personnel that have been hired
6 and people that do these examinations as part of our
7 yearly -- our yearly testing and evaluation, medical
8 and so forth, and they're looking for people that have
9 drug problems, alcohol abuse, criminal records.

10 It's pretty much things that are
11 highlighted in all the other investigations that we go
12 through, but it's more received at kind of a central
13 spot right now because of, you know, additional
14 requirements enacted by law, I guess.

15 Q Were you aware of the fact that USAMRIID
16 apparently was not following regulations that applied
17 to it as far as security was concerned prior to 2001?

18 MS. BROWN: Objection to the form.

19 A I'm not aware of that.

20 Q In November, late November of 2001, were
21 you furnished copies of Army regulations that were to
22 apply to USAMRIID?

23 A I don't know. Probably, I guess. I don't
24 recall.

25 Q Now, prior to today's deposition, did you

Page 56

1 review any documents at all?

2 A I don't know what you're referencing.

3 Q Anything, any documents, any papers of any
4 sort.

5 A Any papers of any sort?

6 Q Yes.

7 A Well, I'm a research scientist. I read
8 articles, scientific articles.

9 Q Let me clarify my question. Prior to
10 today's deposition and in preparation for today's
11 deposition, did you review any documents?

12 A I looked over -- let's see -- a few things.
13 We have some standard policies that we review every
14 year on biosafety and we have some trainings that we do
15 on a yearly basis. I looked at some of those things,
16 just to remind myself of what we had now, and then, so
17 it would be just a couple of Army policies like that, I
18 think one is called 385-69 or something like that, on
19 safety and so forth.

20 THE VIDEOGRAPHER: Mr. Schuler, five
21 minutes.

22 MR. SCHULER: Thank you.

23 Q Anything else that you looked at prior to
24 today's deposition in preparation for it?

25 A I looked a little bit at the 1976

Page 57

1 regulation. I don't remember what it was called.

2 Q Are these things that you had possession
3 of, or did counsel furnish them to you?

4 A Both.

5 Q Anything else that you reviewed in
6 preparation for today's deposition?

7 A Directions on getting here.

8 Q Other than that?

9 A Not a lot. I didn't think it was
10 necessary.

11 Q And have you gone on line and -- well, let
12 me go back.

13 You told us earlier that you testified to
14 -- testified in the grand jury proceeding, correct?

15 A Yes.

16 Q And I believe your statement at some point
17 was taken by the FBI, correct?

18 A I have been visited many times by various
19 agencies, yes.

20 Q Okay. And when you say various agencies,
21 agencies other than the FBI have visited you?

22 A Postal service, DOD, Department of Army
23 folks, investigative groups. But all kinds of, you
24 know, things like that. I can't even remember.

25 Q I know, and this is since 2001?

Page 58

1 A Yes.

2 Q And when you say your statement was taken,
3 usually when a statement is taken, it's a formal type
4 situation. Other than the FBI, did anybody else take
5 your statement?

6 A I guess the postal -- I don't remember.

7 Q Postal investigators?

8 A Yeah.

9 THE VIDEOGRAPHER: Would you like a break?
10 MR. SCHULER: You said we had two minutes.
11 Why don't we just flip it at this point.

12 THE VIDEOGRAPHER: Off the record, 11:47
13 a.m. This ends tape one of the deposition.
14 (Brief recess.)

15 THE VIDEOGRAPHER: On the record, 12:04
16 p.m. This begins tape two of the deposition.

17 Q Dr. Welkos, you mention earlier in your
18 deposition about an Arthur Friedlander. What was his
19 role there at USAMRIID?

20 A He is a researcher. For a couple of years
21 or so he was the chief of the bacteriology division.

22 Q When was he there, approximately, what
23 years?

24 A He's still there. He was there when I came
25 and he's still there now.

Page 59

1 Q Okay. How about a fellow by the name of
2 Bill Day, D-A-Y, do you know him?

3 A He was there for a while. He was post-doc,
4 I believe, with Dr. Friedlander. He left about, I
5 guess, a couple of years ago. I don't believe he was
6 there in 2001.

7 Q How about Tim Hoover?

8 A He's a colleague on the -- an investigator
9 in bacteriology.

10 Q Is he still there?

11 A Yes.

12 Q We mentioned Mara Linscott earlier. I know
13 she left, correct?

14 A Yes, she left.

15 Q About what year did she leave?

16 A I don't recall.

17 Q Do you know where she is now?

18 A Well, after that she went to medical
19 school, I think, in upper -- well, north of here
20 somewhere, but I don't know, to be honest.

21 Q Gary Zauka, or Zaucha?

22 A Zaucha. I think he's -- no, he's somewhere
23 else. He was at the institute for a while. He was an
24 investigator in virology, virology investigator.

25 Q Who has, in the years that you have been

Page 60

1 there, who has primarily worked in the anthrax area?

2 A Let's see. Several people. Dr. Leppla has
3 worked a lot with the toxin.

4 Q Leppla?

5 A Yes. I mentioned him before, L-E-P-P-L-A.
6 He was doing all the toxin work; he didn't work with
7 organisms. Dr. Friedlander; myself, Dr. Ivins, Mr.
8 Little, Steven Little; Dr. Heine; Dr. Hoover, I think.
9 The folks that I mentioned that are no longer there,
10 Dr. Mikesell and Dr. Ristroff and Dr. Gnudson.

11 There are some other people in other
12 divisions who preferably worked at some point or other
13 making a vac -- with the vaccine work or with the
14 pathology, for instance, pathologists that might have
15 worked in some of the animal studies. Again, they
16 would be in a different division. And the people that
17 ran the aerosol facility did some work with anthrax.

18 Q Do you remember any of their names?

19 A Dr. Louise Pitt is the overall director of
20 that. She was involved in that study you mentioned,
21 the post-exposure that had many people, and she has
22 done a lot of animal vaccine work. She is the main
23 person, I think, over there for that.

24 That's some of -- that's most of everybody,
25 I believe.

Page 61

1 Q We talked a little bit about the biosafety
2 level labs. Anthrax was at BSL 3; is that correct?

3 A Yes, in our facility. It is not necessary
4 to work, according to the regulations, it's not
5 necessary that you have to work in BSL 3. It can be
6 worked at under lower containment, but we have always
7 worked at higher containment.

8 Q What are the difference in procedures or
9 distinction between levels 1, 2, 3 and 4?

10 A In terms of anthrax, handling anthrax?

11 Q Yes.

12 A Anthrax can only be handled in BSL 2 level,
13 the lower level, if you're working with small volumes,
14 small volumes of material, liquid volumes or -- and if
15 you're using procedures that don't generate a mist, an
16 aerosol, like using a mixer, and because that's, of
17 course, you know, always a risk; that's why we always
18 do all of our work with the virulent -- the hot -- the
19 virulent strains in the higher containment level.

20 Q And what are the differences in procedures
21 or protection, however you want to phrase it, in the
22 different containment levels, 1, 2, 3 and 4?

23 A Well, level 4, of course, we don't use.
24 That's some of the most dangerous viruses. They have a
25 full body suit that they wear, with an internal air

Page 62

1 supply.

2 Q So you don't use level 4 generally in your

3 work.

4 A We don't use level 4. Our level 3, a lot

5 of safety procedures are similar to level 2, with some

6 exceptions.

7 Of course, to go in there we have to put

8 on, like, a scrub suit type thing, because we discard

9 everything we have on there before we leave, but we

10 have some things called laminar flow hoods, that those

11 are used in BSL 2 and BSL 3 levels for more pathogenic

12 organisms, and that just allows you to work in a hood

13 with an air flow that keeps you away from the organism

14 and the organism away from you; it doesn't -- it

15 prevents environmental contamination.

16 The only time we use respiratory protection

17 would be like whenever we're working with high volumes

18 of material, so we have like -- it's called a half-face

19 respirator, covers your nose and mouth, and it has

20 cartridges that prevent entry of organisms, so it's

21 something you take on and off. So we use that when

22 we're working with larger concentrations of organisms

23 or when we do things like open an incubator or open a

24 centrifuge where there might have been a potential

25 spill. It's just to insure that we're never exposed by

Page 63

1 the aerosol route with the organisms. But those are

2 the major differences.

3 Q Now, have you either gone on line and

4 followed the FBI investigation of the anthrax mailings

5 at all?

6 A To a limited extent, I have some, but not

7 minutely.

8 Q And I know there are numerous documents on

9 line, and I'm only asking you about what's available to

10 the public now, whether it's on line or in a newspaper

11 or magazine.

12 A That's all I would see, anyway.

13 Q Have you followed the investigation through

14 those channels at all?

15 A To a certain extent. Not a whole lot. It

16 gets too much after a while, and I like to focus on my

17 working, instead of having all this take over your

18 life.

19 Q I understand, and obviously it happened

20 nine years ago, the incident, and there have been

21 multiple articles and documents available to the public

22 since then, but have you read about the FBI's

23 conclusion that Dr. Ivins was the perpetrator of this?

24 A Yes.

25 Q And did you read that -- that through

Page 64

1 scientific processes and genetic evaluation, that they

2 were able to determine that the attack anthrax came

3 from a parent of the anthrax that was in a flask called

4 RMR 1029?

5 MS. BROWN: Objection to form.

6 A I understand it originally came from there.

7 Who perpetrated the event, I don't believe there is any

8 data on that.

9 Q Okay, and I just want to do one question.

10 I'll get to the other question, but were you aware of,

11 while you were working there in the year 2001, were you

12 aware of this flask that had RMR 1028 anthrax in it?

13 A I was not.

14 Q Do you know where Dr. Ivins kept that

15 flask?

16 A I don't know.

17 Q When I say that, are you aware of the

18 likely place where he kept it, or should have kept it?

19 A Probably in a cold situation somewhere,

20 perhaps in the walk-in cold room or -- he probably

21 would have kept it refrigerated in some manner.

22 Q Do you know whether anyone other than Dr.

23 Ivins would have had access to that flask, RMR 1029?

24 A I really I don't know. I focus on my own

25 work and don't -- I really don't know.

Page 65

1 Q Again, I'm asking you just from your own

2 observations.

3 A I didn't observe any --

4 Q Well, you worked with this man for almost

5 thirty years.

6 A Well, he was in my division, but I didn't

7 -- beyond those initial studies you showed me, we did

8 not have collaborative work together.

9 Q All right. But you were familiar with who

10 he was, and...

11 A Yes, but I don't know who he gave access to

12 or not to that. It just wasn't something I was

13 interested in knowing or thought I had to know.

14 Q Okay. And again, these are just -- I'm

15 just trying to ask you factual questions here, and if

16 you don't know, tell me you don't, but, I mean, was

17 there any natural curiosity after this, because you

18 worked with these individuals, as to what may have

19 transpired?

20 A No, I -- I was really just anxious to

21 really get on with other things.

22 Q Are you familiar with the science that the

23 FBI used in determining that this flask RMR 1029

24 apparently contained the parent anthrax or the attack

25 anthrax?

1 A To a certain extent. I don't believe most
 2 of it has been published, but the people, I'm sure,
 3 that were asked to assist with that are competent
 4 individuals. I have no reason to believe that it
 5 wouldn't be however they categorized it as.
 6 Q Okay. And that's -- you anticipated sort
 7 of my next question. My next question is, did you,
 8 yourself, review the scientific developments and have
 9 any opinions on the accuracy or inaccuracy of them?
 10 A Again, I haven't gone into any of that
 11 detail and I don't believe most of it has been released
 12 yet in publication form.
 13 Q Now, in your work with anthrax, did you
 14 ever make anthrax spores?
 15 A Yes.
 16 Q And what is the process for doing that?
 17 A Well, we just -- we grow them up in a
 18 liquid culture using vegetative organisms, which are
 19 before they sporulate, until they produce spores.
 20 This is the form that's the infectious
 21 form, so it's what we -- we prepare in order to do
 22 studies on protection against -- against the anthrax
 23 with new vaccines we have made or new treatments, so we
 24 prepare these challenge -- what we call challenge
 25 inocula, small volumes, a liquid culture that we purify

1 and count and use for this type of testing and
 2 evaluation studies.
 3 Q Okay. So you grow anthrax spores in a
 4 liquid culture?
 5 A Yes.
 6 Q And then that's something that Dr. Ivins
 7 was well-schooled in doing, correct?
 8 A Yes.
 9 Q And once you have the spores, do you ever
 10 try and purify them?
 11 A Well, they're run through a -- what's
 12 called a gradient to try to remove the dead, vegetative
 13 cells, which are the things that grow up and release
 14 the spores, because we want to have a good, pure spore
 15 prep that we can count and know how much we are giving
 16 to an animal, for instance. So we purify them in that
 17 manner.
 18 Q When you say run them through a gradient --
 19 A It's a liquid material.
 20 Q Is that something like an organic solvent?
 21 A It's like a density. It varies in density
 22 so that the spores will layer at one point and the rest
 23 of the dead cells in another, and you can take off the
 24 spore layer. It's run in a liquid medium in a
 25 centrifuge.

1 Q And once there is purification in terms of,
 2 quote, unquote, "weaponizing" the anthrax, that would
 3 -- it have to be made into a powder after that,
 4 correct?
 5 A I guess. It's not something I have ever --
 6 would have any experience in. I would assume a powder.
 7 Q That's not something you have ever done?
 8 A No, we don't make powders out of anything.
 9 Ours are all liquid stocks, all of our organisms.
 10 Q With respect to making the anthrax,
 11 purifying the anthrax into a powder, has anybody else,
 12 to your knowledge, working at USAMRIID ever attempted
 13 to do that?
 14 A Not at our institute.
 15 Q Do you know the type of equipment that
 16 would be required to do that?
 17 A Some kind of drying equipment.
 18 Q Is it a lyophilizer?
 19 A I guess it might -- certain types of
 20 lyophilizers -- lyophilizers, I guess, would be used.
 21 It would have to be something under some kind of very
 22 rigid containment conditions so that you don't produce
 23 an aerosol. We had nothing like that.
 24 Q And when you say you had nothing like that,
 25 what are you referring to?

1 A We don't have any way to produce the
 2 massive amount of material that would have been
 3 necessary to grow up and dry in a way that wouldn't
 4 have killed everybody in the institute. We don't work
 5 with powders, just liquids, and in relatively small
 6 volumes. We don't have the expertise to -- to scale up
 7 and manufacture some kind of powder.
 8 Q Do you know whether Dr. Ivins had that
 9 expertise?
 10 A No. I don't believe he did.
 11 Q Do you think that Dr. Ivins was the anthrax
 12 mailer?
 13 A I think there is no data one way or the
 14 other. There is no data on the individual. There is
 15 some scientific data on the material, but I haven't
 16 seen where there is any direct data on it in terms of
 17 who, what and where and -- so I really can't comment.
 18 I don't know who did it.
 19 Q So from your perspective, you said, I
 20 think, earlier, you really don't doubt the science that
 21 traced it back to a certain point, namely the flask of
 22 RMR 1029 that apparently Dr. Ivins had in his area, but
 23 you haven't seen any data linking the person who
 24 actually may have taken that or weaponized it or
 25 anything like that. Is that fair to say?

Page 70

1 MS. BROWN: Objection to the form.
2 Q Is that fair to say?
3 A Yes.
4 Q Do you have any thoughts or opinions on who
5 might have done the mailings?
6 A I have no idea. No idea.
7 Q Were you ever asked or got involved in the
8 investigation of the anthrax attacks?
9 MS. BROWN: Objection. Don't answer.
10 MR. SCHULER: I'm sorry?
11 MS. BROWN: Can you make your question a
12 little bit more specific, if you could?
13 THE WITNESS: Yeah.
14 Q Were you ever involved or asked to get
15 involved in the investigation of the anthrax attacks?
16 MS. BROWN: Same objection. If you could
17 make it more specific what you're talking about, Mr.
18 Schuler.
19 MR. SCHULER: It's just a predicate
20 question. I can get more specific after that.
21 MS. BROWN: Well, I need to know what
22 you're asking to decide if we're going to assert a
23 privilege.
24 MR. SCHULER: I don't know how it can be
25 any more specific. Did anyone ever ask you to do any

Page 71

1 studying of the anthrax powder used in the attacks?
2 MS. BROWN: If you could specify what type
3 of people you're talking about.
4 MR. SCHULER: Anybody. I don't care who it
5 is.
6 MS. BROWN: And you're talking about
7 studying the powder.
8 MR. SCHULER: Right.
9 A No, I never studied any powder.
10 Q I know your statement was taken, and I'm
11 going to ask you some questions about that, but I just
12 need to be clear that you were not involved in the --
13 or asked to be involved in the anthrax investigation.
14 MS. BROWN: Same objection. Are you
15 talking specifically about the testing of spores?
16 MR. SCHULER: I'm just talking about any
17 phase. Any phase of the investigation.
18 Q Obviously your statement was taken,
19 correct? We know that.
20 A I assume it was.
21 Q Okay. Right?
22 A Yeah.
23 Q Okay. And so I guess in that sense, you --
24 they took your statement in connection with the
25 investigation, but what I'm asking you is, were you

Page 72

1 ever asked to do any scientific work in connection with
2 the anthrax investigation.
3 A No.
4 Q Do you know if Dr. Ivins was asked to get
5 involved in the investigation?
6 MS. BROWN: If you can be more specific, if
7 you're talking about the science.
8 MR. SCHULER: Right.
9 MS. BROWN: Yes, you are?
10 MR. SCHULER: Yes.
11 A I don't recall. I don't recall anything
12 that he did, specifically.
13 Q Did Dr. Ivins ever discuss with you his
14 role in connection with the anthrax investigation?
15 A No.
16 Q Did you, yourself, ever observe the powder
17 that was used in the anthrax attack?
18 A No, not the powder.
19 Q Did you ever observe any of the implements,
20 the envelopes, anything like that?
21 A I think I saw an envelope -- the Daschle
22 envelope. Our Diagnostic Systems Division took over
23 most of the epidemiology, forensic things, and I think
24 they showed us -- and it was, like, laminated or
25 something -- one of the envelopes. I think it was the

Page 73

1 Daschle one.
2 Q But that was just showing it to you; you
3 didn't get involved in any type of work.
4 A No.
5 Q Were you aware of whether or not -- well,
6 let me ask you to strike that question and ask you this
7 question.
8 Did either you or Dr. Ivins or anyone else,
9 to your knowledge, ever send the AIMS strain of anthrax
10 to another facility during the time you were at
11 USAMRIID?
12 A A couple of times, yes. It's kind of an
13 onerous process, lot of paperwork. We did it on -- you
14 know, repeated requests a couple of places, mainly
15 other federal institutes.
16 Q Like Dugway, in Utah?
17 A I didn't send anything to them, I don't
18 believe. There was -- let's see, Porton Down, I
19 remember one to them. Again, they're federal military.
20 And once, let's see, post-2001, I sent some -- a strain
21 out to the -- Dr. Schneewind, who was head of the
22 greater -- the Great Lakes Regional Center of
23 Excellence. I don't know if you're aware, there is
24 several Centers of Excellence set up to address -- to
25 be local experts on selected agents, and he requested

Page 74

1 the strain of AIMS.
2 Let's see...
3 Q When was that done, how far back?
4 A I guess that was around, say, 2004. It was
5 before the edict came out that we can't -- or that
6 anybody other than a federal lab, we're not allowed to
7 send anything to them without getting approval by the
8 Pentagon, and that squelched -- which was fine with us
9 -- it squelched all requests, pretty much.
10 That was just before then. So it's been
11 very limited, because it involved a big paperwork trail
12 and a lot of approvals by the CDC, so it was never
13 something we enjoyed doing.
14 Q Well, let me -- and my question was pretty
15 broad, the first part of it. Prior to 2001, did you
16 ever send the AIMS strain out anywhere?
17 A Those are what I mentioned.
18 Q Dugway and --
19 A Yeah. I didn't spend it to Dugway.
20 Probably somebody did; I don't know. I wasn't involved
21 with the Dugway thing. The one I remember is the
22 strain to Porton Down.
23 Q So Porton Down?
24 A Porton Down.
25 Q What year was that?

Page 75

1 A It was in the '80s, because we wanted to
2 make sure our strains were acting similarly, so they
3 sent us theirs, we sent them ours. So the late '80s.
4 Q So Dugway and Porton Down, those are the
5 two you remember?
6 A Yes, but again, I didn't send anything to
7 Dugway.
8 Q That was somebody else?
9 A Somebody else, yeah.
10 Q But you were the one involved in sending
11 the AIMS strain to Porton Down?
12 A At one point, I think. There was others
13 involved with that, too. I don't recall. Other than
14 we wanted to see if both strains were acting similarly
15 so we could compare results.
16 Q Were you aware, in the late 1990's up to
17 2001, that Dr. Ivins was taking psychotropic drugs?
18 A No, I wasn't aware of that. Not at that
19 time.
20 Q Did you become aware of it sometime later?
21 A Very later on in the investigation, I
22 believe he was taking something for depression.
23 Q Did he mention that to you, or how did you
24 find out about that?
25 A He has probably mentioned it to several

Page 76

1 people. I don't recall.
2 Q Do you know what he was taking?
3 A I don't know.
4 Q So you were not aware prior to 2001 that he
5 was taking any type of psychiatric or --
6 A No, I wasn't aware of anything.
7 Q Did Dr. Ivins ever express to you that --
8 concerns that he felt he was delusional or he was
9 having some mental health problems?
10 A No.
11 Q Did you ever become aware as to whether or
12 not Dr. Ivins stole someone's computer password at the
13 institute so he could read their emails?
14 A No.
15 Q The earlier destination, you said, for some
16 of the AIMS strain that was sent somewhere in the
17 midwest; I just -- you said there was a --
18 A Around 2004?
19 Q Yeah.
20 A Yeah, Chicago. The Loyola -- no,
21 University of Chicago.
22 Q There was, you said, something about
23 excellence?
24 A Yeah. After 2001, NIH set up several what
25 they call Regional Centers of Excellence, where they

Page 77

1 were supposed to focus on work with pathogenic
2 organisms and training people how to better work with
3 them, and so forth, and one of these centers was at the
4 University of Chicago. So obviously they needed the --
5 they had never worked with anthrax strains before and
6 they needed to have strains to accomplish their
7 mission.
8 Q Now, did you work with Dr. Ivins or others
9 at USAMRIID on developing an anthrax vaccine?
10 A Yes. Dr. Ivins, Dr. Friedlander, on
11 developing the more purified, defined vaccine called
12 RPA. It's a single-component protein which protects
13 against anthrax.
14 Q And is that something that was worked on
15 over a period of years?
16 A Oh, yes. Because it's now patented and
17 everything, and it's a long process.
18 Q Was the vaccine that was developed at
19 USAMRIID used in the first Gulf War for the soldiers?
20 A Not that one. I think it was still the
21 licensed, cruder vaccine that we all get now.
22 Q Did you work with an outside company or did
23 people, to your knowledge, at USAMRIID work with an
24 outside company to develop and produce vaccine?
25 A I think they worked with a couple just to

Page 78

1 get it -- the manufacturing end, I think Bactigen or
2 something like that.

3 Q I have seen the name BioPort. Do you know
4 who that is?

5 A BioPort. Yes, they are the same ones that
6 produced the current licensed vaccine. And I didn't
7 work with them, but they were all trying to have a
8 better, purified vaccine similar to what we developed,
9 so we worked -- there was some work done with them.
10 That one, I think, would have been post-2001.

11 Q I was going to -- that was my next
12 question. The vaccine that was ultimately produced --
13 there was a vaccine that -- well, were you working on
14 the vaccine project at all in the late '90s?

15 A Late '90s. Yeah. My contribution was in
16 helping with the animal challenge work, not actually
17 producing the vaccine per se. Others did that and we
18 helped with some of the animal, the mouse challenge
19 experiments.

20 Q Was there a problem in the late '90s,
21 specifically, in '99 and 2000 and 2001, with the
22 vaccine meeting the requirements of the outside vendor?
23 If you recall.

24 A Not that I recall.

25 Q Was there more of an effort after the

Page 79

1 attacks in 2001 to develop a vaccine and get it to
2 market, if you will?

3 A I don't think there was any -- it was
4 pretty advanced, I think, by then. There's been an
5 ongoing effort for many years to make a better vaccine
6 when it has less reactigenicity, just immunity that's
7 stronger and lasts longer. That's been ongoing, and
8 still is.

9 Q But you don't recall any issue regarding
10 the potential termination of the anthrax vaccine
11 program in '99, 2000, 2001?

12 A Not specifically. It's gradually going
13 down, funding for it, over the years. I don't recall
14 any specific episode, but...

15 Q Was funding then increased for it after
16 2001?

17 A Generally speaking, it was increased by DOD
18 and NIH across the board. Many people started to get
19 involved with the research then, federal, nonfederal,
20 and there was a lot of money going into it, obviously.

21 Q Were there additional people that were
22 hired at USAMRIID because of the additional focus on
23 the anthrax vaccine after 2001?

24 A Not really. Because we were already going
25 into other organisms also, and I don't recall any

Page 80

1 specific increase in personnel.

2 Q Was there a walk-in cooler at BSL 3?

3 A Yes. I mentioned a walk-in cold room, and
4 essentially, a refrigerator that you can walk into.

5 Q And was that secured by anything, any locks
6 or anything like that on that?

7 A No. The security in the suite is taken
8 care of by all the -- you know, the up-front assessment
9 is done, and once you're in there, it's -- you know,
10 the whole suite is secure, so there is no need to
11 secure every little individual door.

12 Q Do you recall whether or not the FBI
13 removed anthrax stocks from that B 3 walk-in cooler at
14 some point?

15 A Probably. They removed -- it was at their
16 discretion to remove what they wanted to, and they
17 removed some frozen stocks and probably some from
18 there. I can't -- don't know specifically what all
19 they took.

20 MR. SCHULER: We will take a short break,
21 if you don't mind, now.

22 THE VIDEOGRAPHER: Off the record, 12:39
23 p.m.

24 (Brief recess.)

25 THE VIDEOGRAPHER: On the record, 12:48

Page 81

1 p.m.

2 Q Dr. Welkos, I think you testified earlier
3 that you were aware of the Inspector General's
4 inspection in November, 2001 of USAMRIID, but you
5 didn't speak with any of the people, or don't recall
6 speaking with any of the people that came there,
7 correct?

8 A I really have no recollection of it in any
9 way.

10 Q Okay. Do you recall just prior to their
11 inspection being sent a copy of regulations that were
12 applicable to the operation of USAMRIID?

13 A Didn't you just ask this same question a
14 while back?

15 Q I don't think I asked this specific
16 question, though. I apologize if I'm redundant, but I
17 don't think --

18 A We get so much paperwork and so much
19 training in policies, I can't remember.

20 Q Let me show you this document here dated
21 November 1, 2001, it's Army 03006969, and ask you to
22 tell me if that's a memo that you recall receiving.

23 A No, but, you know, it could be. I don't
24 know.

25 Q You don't recall receiving it at this

Page 82

1 point?

2 A No.

3 Q But you could have; is that what you're

4 saying?

5 A Could have. We received things like that

6 all the time.

7 MR. SCHULER: Let me mark that as

8 plaintiffs' next numbered, which is 13, I believe.

9 (Deposition Exhibit 13 was marked for

10 purposes of identification.)

11 Q Do you know a Patricia Worsham?

12 A Yes. I had mentioned that she was our

13 current division chief.

14 Q And back in 2001, do you remember what

15 position she held back then?

16 A She would have been staff scientist, like

17 myself. Or she might have been -- I don't know. At

18 some point she became a deputy chief, and I don't

19 recall exactly when that was.

20 Q And do you recall a rule, the EA 101 rule?

21 A Yes. That's what we followed when we

22 needed to ship a strain outside USAMRIID. I mentioned

23 that previously. It's part of the CDC requirements;

24 they have to approve it, and again it calls for a

25 paperwork trail, but that was the main form that would

Page 83

1 be involved in shipping.

2 Q Is that a rule that's applicable to anthrax

3 in general, or only certain strains?

4 A Well, any AIMS agent. It's not just

5 anthrax, that would be anything we wanted to ship out

6 that was considered to be a pathogen, the CDC had to

7 approve it, and receiving and sending institutions had

8 to sign it and so forth and so on.

9 Q I'm going to show you this email, again,

10 going back to April 6th of 2001, and ask if you recall

11 receiving that inquiry about how that rule operates.

12 Do you recall receiving that type of memo?

13 A Generally, I think that's when somebody is

14 putting down some DNA from the organism, not the

15 organism, but extracting nucleic acid. I was probably

16 trying to find out if I needed to have this other

17 regulation involved in this or whether it was just --

18 we have our own shipping forms internally. I wanted to

19 clarify whether we just needed that or the OSS would

20 need the EA 101.

21 MR. SCHULER: All right. Let me mark that

22 as plaintiffs' 14.

23 (Deposition Exhibit 14 was marked for

24 purposes of identification.)

25 Q And I'm going to hand you a copy of a

Page 84

1 document. This one, we just received on Friday before

2 I came up here. It's Army 03008000, appears to be from

3 Bruce Ivins to a number of people at USAMRIID, and then

4 it's forwarded to you, among others.

5 Let me just show you this and ask you if

6 you remember this document. It purports to deal with

7 the biological surety will program that you referenced

8 earlier.

9 I assume all those things are together.

10 MR. TARANTO: If it's the production that

11 was...

12 MR. SCHULER: The one that we just got.

13 MR. TARANTO: Right. I think there were

14 about 40 pages of material, and they consisted of

15 something like nine or sixteen -- I think sixteen

16 separate documents. They were separate PDF's. So

17 these were probably all printed out for you by your

18 office and given to you as a group.

19 MR. SCHULER: Right. Well, here, let me

20 make sure --

21 MR. TARANTO: So it's a collection.

22 MS. BROWN: You can split it if you want,

23 but it's not clear to us at all that those --

24 MR. SCHULER: Let me just focus on the...

25 MS. BROWN: We just want to make sure the

Page 85

1 comment about it being an email for Mr. Ivins

2 concerning biosurety may not apply to all those pages.

3 MR. TARANTO: During a break, if you want,

4 I could reconstruct for you, but by looking at the PDF,

5 where one document ends and another begins. Also, they

6 were separately listed for the Bates numbers on the

7 appendix that accompanied the production.

8 MR. SCHULER: All right, well, let's go off

9 the record for a moment again, because I'm near the

10 end, and it's --

11 THE VIDEOGRAPHER: Off the record at 12:56

12 p.m.

13 (Brief recess.)

14 THE VIDEOGRAPHER: On the record, 1:01 p.m.

15 Q Dr. Welkos, let me show you what purports

16 to be USAMRIID Regulation 385-69, Biocontainment

17 Laboratory Operations, effective March 1, 1995. Are

18 you familiar with that particular regulation, is my

19 first predicate question.

20 MS. BROWN: I actually also just want to

21 make sure for the record that we did not mark the

22 previous document that you discussed.

23 MR. SCHULER: No, we did not.

24 MS. BROWN: (Proffers documents to the

25 witness.)

Page 86

1 A Yes, I'm familiar with the more current
2 versions of it, 385-69, yes.
3 Q That appears to be a copy of at least
4 around the year 2002 that was sent to you in the -- in
5 what we have marked as Plaintiffs' 13 with a cover
6 memo, correct?
7 A Yes, I guess.
8 Q Okay. And this particular regulation
9 requires that the supervising division chief -- which
10 would be in our outline here the chief of bacteriology,
11 which in June, 2001, was Lt. Colonel Andrews, right --
12 that he and the chief of the medical division, which
13 back in June, 2001 was Colonel William Byrne -- will
14 ensure that only physically sound and mentally stable
15 personnel are assigned to bio safety level 3 and 3A and
16 4 biocontainment laboratories. That's a requirement,
17 correct?
18 A Yes.
19 MS. BROWN: Mr. Schuler, if you're going to
20 ask her specific questions about the regulation, we
21 just ask that she have it in front of her so she can
22 follow along.
23 Q Sure. I referred to item number 8 there,
24 and I also want to refer you to item 12.
25 A Yes.

Page 87

1 Q And item 12 refers to what's called MET
2 training.
3 A Yes.
4 Q What does MET stand for?
5 A It's an annual requirement, basically a
6 checklist of all the regulations that pertain to work
7 in the different laboratory levels. It's something
8 that we review yearly and then sign off on. Now it's
9 no longer done.
10 Q Because there's been a change in procedure,
11 right, since 2001?
12 A It's covered by a Power Point presentation.
13 It's not something that we have to initial a hundred
14 slots for anymore. It's the same material course.
15 That doesn't change.
16 Q Have -- prior to 2001, have you ever known
17 people to get into your building through restricted
18 areas without any badges?
19 A I'm not aware of that.
20 Q Prior to 2001, were bags and packages
21 checked upon entry or on the way out?
22 A Not routinely. That would have been done
23 on a random basis. I'm not sure when that was put into
24 place, but generally a random selection procedure for
25 that.

Page 88

1 Q Do you know even if the random situation
2 was in effect prior to 2001?
3 A I don't recall.
4 Q Prior to 2001, do you recall whether anyone
5 had been precluded from working at USAMRIID, for
6 example, because of questionable reliability?
7 A There was an animal caretaker who was
8 having some psychiatric problems. I don't remember if
9 it was right exactly -- it was quite a while back, so
10 it might have been right around then. That's the only
11 case that I can think of.
12 Q What is the extent of your knowledge there?
13 A Some family issues that was upsetting him,
14 and it was thought, for his safety and everybody else's
15 safety, to remove him from working in a containment
16 area, and he was then working in the non-containment
17 animal facility.
18 Q Prior to 2001, how was it determined, if it
19 was, whether a particular biological agent was present
20 in a particular BSL room?
21 A Well, we had an agent registry that would
22 have indicated it. Also, on our -- some of our
23 protocols that we write for approval, animal care use
24 committee phone calls, for instance, we would have to
25 indicate what we were using and where we were going to

Page 89

1 use it. Possibly on the Institutional Biosafety
2 Committee protocols that we write. So there were
3 several places where it could have been indicated, at
4 least which suites the material would have been in. So
5 there should have been a knowledge of that.
6 Q But, I mean, is there a -- I guess what I'm
7 getting at, is there anything now that if you go into a
8 BSL 3 containment area, as you're going in, or prior to
9 your going in, tells you, "Well, in this area, there
10 are certain organisms"?
11 A Yes, that's what I mentioned before, the
12 AIMS system we have now, electronic -- it's called the
13 Agent Inventory Management System, we track that to the
14 vial, and we have a -- we're interviewed and supplied
15 and go through an audit every year of all of our
16 stocks, every vial that we have, by the vial-sharing
17 group, so, yes, that's in force.
18 Q Do you think the security is better there
19 now than it was before 2001?
20 A I guess to a certain extent, but again,
21 because of the nature of what we deal with, it's very
22 problematical to make it a hundred percent secure.
23 There is probably no way, other than insuring personnel
24 reliability. So I'm not sure exactly what the effect
25 of the added-on procedures since 2001 are. I'm not

Page 90

1 sure they have had an additional protection --
2 biosafety assurity effect or not. I mean, it's not
3 clear to me.
4 Q You mentioned earlier -- and again, I don't
5 mean to repeat myself here, but you mentioned earlier
6 there is now cameras in the biosafety level labs,
7 right?
8 A Yes. Well, that would be the one thing
9 that definitely is a change, major change. So in that
10 way -- I should qualify. I believe that has to some
11 degree enhanced the security.
12 But again, if somebody wanted to get a
13 little bit of an agent and somehow get it out, it's
14 probably not possible to totally exclude that, or to
15 just get the organism they want from a different place,
16 nonfederal lab, so... But the cameras definitely, they
17 can track us everywhere we go now.
18 Q The camera is one thing, and then do you
19 have, procedure-wise, do you have to go in with someone
20 else when you're going into BSL 3 or BSL 4 laboratory
21 space?
22 A It depends on your level of training, where
23 you are in the process of training to be in there. A
24 new person has to be mentored, and they're escorted at
25 all times. There is a certain period of time when that

Page 91

1 the supervisor says, "Yes, they are now fully trained
2 to work safely in a suite," then they're allowed to go
3 in without having to be escorted.
4 Q So you can still go into those areas
5 without escort?
6 A If you're properly trained and have gone
7 through all the investigation, yes. Out of normal
8 working hours, you have to notify the safety -- the
9 front desk, the safety, and so they have to know
10 exactly when you're in there and when you come out.
11 Again, the cameras are on at all times, so
12 they would -- in there, and they can see that you're in
13 there. During the day, of course, there is normally a
14 number of people using the labs, anyway. But to get
15 that, you have to have passed all the training and be
16 qualified with all the investigations to be certain
17 that you can work without any problem in the suite.
18 Q So -- and to sum up, the improvements, if
19 you will, in the security have been the cameras in the
20 labs.
21 A Um-hmm.
22 Q I think you mentioned earlier the arm --
23 the guards are now armed, right?
24 A Um-hmm.
25 MS. BROWN: Objection to the form.

Page 92

1 Q Correct?
2 A Yes, I believe so. Then of course there is
3 a biometrics addition to the key pad. A fingerprint is
4 taken every time you go in.
5 Q Okay. So that's another thing that's been
6 improved, right?
7 MS. BROWN: Objection to the form.
8 A It's mainly a few physical security
9 procedures.
10 Q And you mentioned there is -- one of the
11 entrances is closed off; now there is a single
12 entrance; is that right?
13 A Yes.
14 Q And the biometric type entry is a
15 fingerprint, as opposed to a retinal scan or something
16 like that?
17 A Right.
18 Q We talked about the buddy system. You
19 mentioned that there are, I think -- cars can't park as
20 close now because of the cement --
21 A Yes.
22 Q -- structures out there. And then there is
23 the changes in the personnel surety program, correct?
24 A The addition of extra layers of that, yes.
25 Q And these extra layers, I think you said

Page 93

1 earlier, had to do with the psychological or
2 psychiatric type testing and --
3 A What they call personnel reliability.
4 Q What I was going to show you now, we
5 separated it, but it's a memo, and your name is
6 included as a recipient, dated January 2nd, 2002,
7 dealing with the -- establishing the Army Biological
8 Surety Program. Let me show you that.
9 MS. BROWN: You didn't mark the previous
10 exhibit, 385-69. Did you mean to?
11 MR. SCHULER: We can. I think we talked
12 about it. We will mark that as -- since we talked
13 about it, I guess we should. Plaintiffs' 15.
14 (Deposition Exhibit 15 was marked for
15 purposes of identification.)
16 Q My question to you is, is that a memo that
17 you received, along with the attachment showing the
18 outline of what was to be done to establish the Army
19 biological surety program in 2002?
20 A It could well have been. It was a long
21 process to get that to the point where it is now.
22 MR. SCHULER: We will mark that as
23 Plaintiffs' 16.
24 (Deposition Exhibit 16 was marked for
25 purposes of identification.)

Page 94

1 Q Now, the one I handed you that we have
 2 marked as Plaintiffs' 16, the various items, it was a
 3 request for a comment on each one and I think the
 4 comments that are made there are Dr. Ivins' comments,
 5 but did you, yourself, file comments in response to
 6 this memo on the various categories?
 7 A I probably did. I forget exactly what they
 8 were, but if he requested that, I probably did.
 9 Q Did you ever get any copies back or keep
 10 any copies of comments you made?
 11 A No, I don't have any copies.
 12 Q The initials SIP, in caps, what does that
 13 represent?
 14 A Special Immunizations Program.
 15 Q If there was a question about exposure to a
 16 pathogen, is that someplace that you have to go to get
 17 checked out?
 18 MS. BROWN: Objection to the form.
 19 A Yes.
 20 Q I didn't hear your answer.
 21 A Yes, it would be.
 22 Q Do you recall an incident where Dr. Ivins
 23 mistakenly injected another coworker?
 24 A No.
 25 Q Have you, yourself, ever been exposed to a

Page 95

1 pathogen, such that you had to require medical
 2 attention?
 3 A No. Somebody dropped a plate on the floor
 4 once and we were required to go down there, but there
 5 was no danger at all; it's just that they're
 6 extra-cautious, and you go down there to get your
 7 temperature checked, and -- but no, nothing real, or,
 8 you know, a real serious nature.
 9 Q Have you, yourself, ever seen the result of
 10 someone being affected by inhalation of anthrax spores?
 11 A I don't know exactly what you mean.
 12 Q Have you ever seen a human being that's --
 13 what happens to them when they have inhaled anthrax
 14 spores?
 15 A Just from reading the literature.
 16 Q And what is your knowledge of that? What
 17 is the damage that's done, if you know?
 18 A Well, you die easily. The organisms take
 19 over the bloodstream, and if it's high enough
 20 concentration, then you have overwhelming septicemia,
 21 and production of the toxin usually causes a person to
 22 die.
 23 Q What, is there end organ failure, is that
 24 basically what happens?
 25 A Yeah, there is usually disseminated

Page 96

1 intravascular coagulation, they call it, and effect on
 2 the respiratory system, and -- I'm not a pathologist,
 3 but...
 4 Q And you just -- this is something that --
 5 knowledge that you have acquired by reading about it?
 6 A Well, yes, um-hmm.
 7 Q And -- well, strike that. Do you recall
 8 having a meeting to discuss institute standard
 9 operating procedures on April 26th of 2002?
 10 A No, I don't.
 11 MR. SCHULER: I believe that's all the
 12 questions I have. Let's go off the record for a minute
 13 and let me just tidy up here and make sure.
 14 THE VIDEOGRAPHER: Off the record, 1:20
 15 p.m.
 16 (Brief recess.)
 17 THE VIDEOGRAPHER: On the record, 1:42 p.m.
 18 MS. BROWN: Mr. Schuler, were you going say
 19 that you didn't have any more questions?
 20 MR. SCHULER: I will. I have no further
 21 questions.
 22 EXAMINATION BY MS. BROWN:
 23 Q Dr. Welkos, we just have a couple of
 24 questions for you. And I'm handing you what is going
 25 to be -- well, I guess that will be Defendant's Exhibit

Page 97

1 1.
 2 (Defendant's Deposition Exhibit 1 was
 3 marked for purposes of identification.)
 4 Q What I have marked as Defendant's Exhibit 1
 5 is Army Regulation 70-65. Do you recognize this
 6 document, Dr. Welkos?
 7 A Yes.
 8 Q You spoke earlier of a regulation in place,
 9 and I believe you said 1967. Is that the regulation
 10 you were speaking of?
 11 A Yes.
 12 Q And that concerns hazardous biological
 13 substances; is that right?
 14 A Yes.
 15 Q Directing your attention to the page Bates
 16 numbered at the bottom ending in 1731? And I'm
 17 specifically looking at section 3-1, where it concerns
 18 reference stock. Do you see that?
 19 A Yes.
 20 Q Now, previously you spoke of a repository
 21 and regulations about the stocks contained therein.
 22 A Yes.
 23 Q Are those the reference stocks that are
 24 referred to in Regulation 70-65?
 25 A Yes. I was trying to fish for that word,

Page 98

1 but yes, those are the reference stocks we institute
2 are held in this repository.
3 Q And that's the repository that you spoke of
4 that two people are need to access.
5 A Yes.
6 Q There is also a definition there of working
7 stock?
8 A Yes.
9 Q To your knowledge, does that definition
10 apply to the stocks that were contained in the
11 bacteriology suite at USAMRIID in 2001?
12 A Yes, um-hmm, they do. It does.
13 Q And previously, I believe you referred to
14 it as a walk-in cold room?
15 A Yes.
16 Q And what types of materials would be
17 contained in the walk-in cold room?
18 A That would be stocks that you don't want to
19 freeze, liquid cultures, sometimes, temporarily, plates
20 with cultures on them. Those are very temporary. The
21 liquid stocks could be in there for various periods,
22 like, again, it would be material that you don't want
23 to store in a frozen manner.
24 Q Are those liquid cultures in place that you
25 describe, would those be categorized as working stock

Page 99

1 under Reg --
2 A Yes.
3 Q -- sorry -- under Regulation 70-65?
4 A I'm sorry. Yes, they would be.
5 Q And to your knowledge, was there any
6 requirement with regard to the inventory of that type
7 of working stock in 2001?
8 A No specific requirement. They were
9 considered to be decentralized and identified. In
10 other words, as it says here, the stock that we used
11 were identified in approved research protocols.
12 I mentioned the Animal Care and Use
13 Committee protocols, the Institution Biosafety
14 Committee protocols. They were all identified and
15 described here and maintained in each investigator's
16 individual inventory. There wasn't a centralized
17 requirement at that point for inventorying working
18 stocks.
19 Q Prior to and including October, 2001, did
20 you ever have any concerns about Dr. Ivins' stability?
21 A No, I did not.
22 MS. BROWN: I don't have any other
23 questions.
24 EXAMINATION BY MR. SCHULER:
25 Q I have got a few follow-up questions, Dr.

Page 100

1 Welkos.
2 In the deposition of Colonel Elliott, who
3 is the Inspector General head of the team that
4 inspected USAMRIID in November of 2001, he testified
5 that their findings were that when they inspected
6 USAMRIID and two other facilities, that this Army
7 Regulation 70-65 that you have before you was -- two of
8 the facilities were not even aware of its existence,
9 and the third laboratory was not following that
10 regulation, since they felt it was so outdated.
11 My question to you is, where did USAMRIID
12 fall? Was it either not following that AR 70-65, or
13 was it not aware of its existence at that time? If you
14 know.
15 MS. BROWN: Objection to the form.
16 A I don't know whether they were aware of it
17 or not, but from reading here, I would say we were
18 following it. We had the reference stock, which was
19 inventoried and accessed according to this 2.0, and we
20 had our working stocks, which the materials were
21 identified in protocols, so as far as I'm concerned, we
22 were following this.
23 Q So you obviously would disagree with the
24 findings of the Inspector General, who came in as an
25 objective observer to evaluate the lab back in

Page 101

1 November, 2001; is that right?
2 A Well, again, I don't have direct access to
3 exactly what he said, but from what you're
4 paraphrasing, I would say that we were following the
5 rules.
6 Like I say, I don't know what details he
7 might have had or something, but from your statements,
8 I would say we were doing what we were supposed to.
9 Q Also, they found that there was no
10 continuing evaluation mandates, and that's a vital
11 aspect of personnel reliability programs that protect
12 other national interests such as nuclear and chemical
13 assets that were being followed at USAMRIID. Would you
14 agree or disagree with that?
15 MS. BROWN: Objection to the form.
16 A Could you tell me what you mean by
17 continuing evaluations? Of what?
18 Q Personnel reliability, no evaluations on a
19 continuing basis, either annually or every five years.
20 Were they keeping records of individuals' status as far
21 as crimes committed, as far as their financial
22 considerations, contact with foreign nationals,
23 alcoholism, medical, psychiatric problems...
24 MS. BROWN: Objection to the form.
25 A I don't recall that being the case. Since

1 whenever I can remember, we had to do our five-year
2 investigation, and that would have covered some of
3 that. We had -- every year we had our annual medical,
4 occupational, psychological reevaluation on a yearly
5 basis, so I really don't understand that.

6 Q They also found that physical security
7 standards are not consistent throughout USAMRIID; in
8 fact, pointed out that some of their own inspectors
9 piggybacked without proper identification through the
10 door of USAMRIID and got in without proper
11 identification. Were you aware of that occurring?

12 MS. BROWN: Hold on. Mr. Schuler, this is
13 well outside the scope of my questions.

14 MR. SCHULER: You brought up AR 70-65, so
15 that's what I'm pursuing.

16 MS. BROWN: And you're saying that that
17 question that you're asking concerns AR 70-65?

18 MR. SCHULER: Absolutely.

19 MS. BROWN: I'm also going to object to
20 form, but you can go ahead and answer the question.

21 A I'm not aware of any flagrant piggybacking
22 through the front door or anywhere else. Now they have
23 a motion detector and a biometric thing that would make
24 that harder, but I'm not aware of any flagrant
25 occurrence of that. The only thing I could think of

1 District of Columbia, to wit:

2
3 I, George W. Tudor, a Notary Public of the
4 District of Columbia, do hereby certify that the
5 within-named proceedings took place before me at the
6 time and place herein set out.

7 I further certify that the proceedings were
8 recorded stenographically by me and this transcript is
9 a true record of the proceedings.

10 I further certify that I am not of counsel
11 to any of the parties, nor an employee of counsel, nor
12 related to any of the parties, nor in any way
13 interested in the outcome of this action.

14 As witnessed my hand and notarial seal this
15 15th day of November, 2010.

16
17
18
19
20 _____
21 George W. Tudor
22 Notary Public

23
24 My Commission Expires:
25 January 1, 2016

1 there have been an occasional example of two colleagues
2 were going into the suite and one of them forgot his
3 badge. There may have been some of that occurring; I'm
4 not saying it never, ever occurred, but I'm not aware
5 of any kind of -- like I say, really, really extreme,
6 flagrant occurrence of that.

7 Q And as you have said, you're a scientist,
8 and your main interest was going to work and just
9 focusing and doing your job, correct?

10 A That's correct.

11 MR. SCHULER: That's all the questions I
12 have.

13 THE VIDEOGRAPHER: Off the record, 1:52
14 p.m. This ends the deposition.

15 (Deposition concluded at 1:52 p.m.)
16
17
18
19
20
21
22
23
24
25