

Terror and the Patriot Act of 2001, Implemented in the Immediate Wake of 9/11

By [Prof. Graeme MacQueen](#)

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In the fall of 2001 members of the U.S. executive branch terrorized Congress into passing the Patriot Act that assaulted the rights of citizens.

Tom Daschle was at the U.S. Capitol when news of the 9/11 attacks broke. He began watching events unfold on television like other Americans. But shortly after 10:30 a.m. a Capitol police officer ran into the room. "Senator, he said, "we're under attack. We have word that an airplane is heading this way and could hit the building anytime. You need to evacuate." [1]

The plane in question was probably the one that was eventually destroyed in Pennsylvania (allegedly United Airlines Flight 93). On September 11 and for some time after there was a widespread belief that this plane had originally been headed for the Capitol, the intention being to decapitate the republic by killing many of its elected members.

Daschle says "the scene was total chaos." The halls "were filled with fear and confusion." This was "the first time in history that the entire United States Capitol had been evacuated." [2] With no procedure in place for this kind of attack, senators and representatives scattered. Daschle, as Majority Leader, was put by his security detail into a helicopter and flown to a secure location. Later, in the evening, members of Congress drifted back to the Capitol, listened to speeches, and broke into a spontaneous rendition of God Bless America. [3]

The unity that threat and war induce was already taking hold. Daschle says "we turned to one another like long-lost members of a large family and embraced." [4] Of the day as a whole, he remarks: "I can't think of a time in my life when I have witnessed such deeply felt unity and connection among our countrymen." [5]

Polls soon confirmed Daschle's observations. A sense of national unity and pride increased, support for the executive dramatically climbed, and citizens confirmed a willingness to surrender civil liberties as part of the sacrifice that seemed demanded of them. [6]

From that violent day in September until the end of the autumn of 2001 there was not a day when Congress was safe. After 9/11 the Capitol was closed to the public and "surrounded by yellow police tape and concrete barriers." [7] The risk of violent incidents directed at Congress became a major media theme. And the danger from planes crashing into buildings rapidly became augmented in a most peculiar way by a new threat, the threat of a bioterror attack, especially anthrax.

On Monday, September 17, 2001 an unusual pattern began to emerge.

Attorney General John Ashcroft announced on this day that he would soon be sending an anti-terrorism proposal to the U.S. Congress and that he would ask Congress to enact the legislation by Friday, September 21.[8] Given the length, complexity and importance of the bill (the Patriot Act) this was an astonishing announcement. He was asking Congress to act with blazing speed and to make an Olympian leap of faith.

On the same day, September 17, an article by Rick Weiss appeared in the *Washington Post* entitled, "Bioterrorism: An Even More Devastating Threat." Weiss explained that:

"Biological attacks can be far more difficult to respond to than conventional terrorist attacks. For one thing, they are covert rather than overt; for days, no one would know that one had occurred. That's a huge problem for a disease like anthrax."

If it was peculiar that the announcement of the proposed legislation should correspond with the announcement of a threat of anthrax, it was even more peculiar that the threat was simultaneously being made real. On September 17, or possibly on the following day, letters containing spores of *Bacillus anthracis* were put in the U.S. mail.[9] As Weiss had suggested, although several people at the targeted sites (news agencies) developed anthrax, for some time after the disease was induced it remained undiagnosed.

The pattern was now established. For over a month following Ashcroft's announcement, as the Patriot Act made its way through Congress before being signed into law by G. W. Bush on October 26, the bill would be accompanied by anthrax—both the threat and the reality. Perhaps there has never been a piece of legislation in American history that was so clearly forced on Congress by a credible threat of death.

Congress, it seemed, required this death threat. Although it had been traumatized by the 9/11 attacks, it had not been prepared to pass the Patriot Act as quickly as Ashcroft wanted—in the same week it was proposed—and in fact by September 24 the legislation had run into trouble, coming in for criticism in committees of both Senate and House. Ashcroft kept pushing. "Terrorism is a clear and present danger to Americans today," he said, adding that "each day that so passes is a day that terrorists have an advantage." [10] On September 25 questions and criticisms continued to arise, so Bush and Cheney entered the fray. Bush said: "we're at war...and in order to win the war, we must make sure the law enforcement men and women have got the tools necessary." Cheney, at a lunch with Republican senators, asked them to do their best to get the legislation through Congress by October 5.[11]

On September 30 a major administration offensive began, with the aim of putting pressure on Congress to meet Cheney's new deadline of October 5. Among the members of the executive branch stepping forward were, in addition to Ashcroft, White House Chief of Staff Andrew Card, Secretary of Defense Donald Rumsfeld, and Secretary of Health and Human Services Tommy Thompson. Card said on television that "terrorist organizations, like al Qaeda...have probably found the means to use biological or chemical warfare." Tommy Thompson, trying to strike a more reassuring note, assured his television viewers that "we're prepared to take care of any contingency, any consequence that develops for any kind of biological attack." [12]

There was nothing subtle about the connection of all these speeches and warnings to the bill

the administration wanted passed. The first line in the *Washington Post's* October 1 article on the topic was: "Bush administration officials said yesterday there will likely be more terrorist strikes in the United States, possibly including chemical and biological warfare, and they urged Congress to expand police powers by Friday [Oct. 5] to counter the threat." [13]

On the same day as this administration offensive, September 30, photo editor Robert Stevens, on vacation, came down with "flu-like symptoms" and crawled into the backseat of his car to rest, letting his wife take the wheel. [14] He had inhalation anthrax. His illness would be diagnosed on October 3 and he would die on October 5. October 3 would mark the first diagnosis of anthrax and the first day on which anyone except the perpetrators should have known anthrax was in play. *All anthrax warnings in the period prior to October 3 must be regarded as suspicious in the extreme.*

But anthrax references prior to Stevens' diagnosis were actually very common. [15] An op-ed by Maureen Dowd appeared in *The New York Times* on September 26 with the title, "From Botox to Botulism." The article's theme was that naïve "boomers" were living in the delusion that "they could make life safe." This generation "that came of age with psychedelic frolicking" was ill prepared, Dowd said, for Muslim martyrs dispersing biological toxins. Upper middle class New York women were carrying Cipro, Dowd claimed, in their "little black Prada techno-nylon bags" due to widespread fears of an anthrax attack.

Cipro (ciprofloxacin) was the antibiotic recommended at the time against anthrax. It is not surprising that Cipro received a great deal of media attention in October after it was clear that people were coming down with anthrax, but is it not strange that Cipro received so much attention in the period just prior to the emergence of public knowledge of the attacks? On September 27 *The New York Times* followed Dowd's article with, "Anthrax Scare Prompts Run on an Antibiotic." "'We can't keep it in stock,' says Sebastian Manciameli, a pharmacist at Zitomer Pharmacy on Manhattan's Upper East Side."

Examples of suspicious foreknowledge are easy to find. Richard Cohen, a columnist for the *Washington Post*, admitted in later years that he "had been told soon after Sept. 11 to secure Cipro, the antidote to anthrax." "The tip had come in a roundabout way from a high government official, and I immediately acted on it. I was carrying Cipro way before most people had heard of it." [16]

When did Cohen receive his extraordinary tip? We know that by September 26 (article published in *The New York Times* September 27) there was a run on Cipro and druggists could not keep it in stock. Obviously at this time a great many people had heard of it. So Cohen's tip must have been received "way before" September 26 and "soon after" September 11. Whatever the exact date may have been, it was well before any government official is supposed to have known anthrax spores were in circulation.

It was eventually revealed that both George W. Bush and Dick Cheney were put on Cipro on September 11. [17] Attempts to explain this as standard protocol following a terrorist event must contend with the flood of anthrax warnings, including Cohen's, that soon followed and that cannot be dismissed as protocol but indicate foreknowledge.

Meanwhile, the threats to Congress continued. On October 9 it was noted that terrorist retaliation was expected now that Afghanistan was being bombed. Congress was said to be a prime target. Members of Congress were advised to hide their identities. "On Capitol Hill members of Congress were discouraged from wearing their congressional pins when they

are away from the Capitol.” Moreover, they were “advised for security reasons to avoid using license plates or anything else that would identify them as members of Congress.”[18]

On October 10 it was learned that “concern over an attack on the U.S. Capitol” was resulting in proposals for road closings and barriers. “Washington is considered one of the leading targets for terrorists.”[19]

On October 11 the FBI issued its most specific warning since 9/11, saying that “additional terrorist acts could be directed at U.S. interests at home and abroad over the ‘next several days.’” The warning included all types of terrorist attacks and specifically referred to the Capitol as a possible target. Mention was made of crop-duster planes, which were being reported widely in the news as especially effective methods of delivering large quantities of biological or chemical agents.[20] (Crop-dusters pointed to Iraq. For several years U.S. intelligence had falsely maintained that Iraq had terror crop-dusters ready to deliver anthrax.)[21]

The FBI’s October 11 warning was well timed and effective for passage of the Patriot Act. The Senate had been giving the executive trouble, and it buckled subsequent to this warning. The bill was passed by the Senate late in the evening of October 11.

But real anthrax, not just threatened anthrax, was again in play by this time, and U.S. Senators were the new targets.

There is no mystery as to why the Senate rather than the House was the target. The Republicans had a comfortable majority in the House and could easily carry the vote regardless of opposition, but in the Senate the Democrats had a majority of one. To become law the Patriot Act had to pass in both houses, and the Democrats were in a position to block it in the Senate. Many of the same proposals that constituted the Patriot Act had been tried out on Congress after the Oklahoma bombing of 1996 and they had, in fact, been blocked.[22] The same danger existed this time, and the more time the Senate had to recover from the trauma of 9/11 the more likely it was that the measures would once again be stopped.

There were two Democratic Senators who were in an especially strong position to halt the legislation. Tom Daschle was Senate Majority Leader. He had a great deal of power in establishing a timeline, negotiating with the opposition party and with the executive, and generally determining whether and in what form the bill would make it through. Patrick Leahy was Chair of the Senate Judicial Committee, the committee that was central to the review of all bills affecting the civil rights of Americans. Leahy was in daily contact with Ashcroft’s office, trying to find formulations of the bill’s measures that he could live with.

Daschle has noted in his account of those days the pressure he and his fellow Democrats were under. Ashcroft, he says, “attacked Democrats for delaying passage of this bill.” “[I]n this climate of anxiety, the attorney general was implicitly suggesting that further attacks might not be prevented if Democrats didn’t stop delaying.”[23]

Although today it may be difficult today to see Dashle and Leahy as champions of civil rights—they both accepted the need for the Patriot Act and worked very hard to get it passed—there were certain times when they drew the line. October 2 was one such occasion. It appears that their opposition on that day nearly got them killed.

The *Washington Post* gave the gist of that day's conflict in the title of an important October 3 article: "Anti-terrorism Bill Hits Snag on the Hill; Dispute Between Senate Democrats, White House." [24] The article's author noted that "Leahy accused the White House of reneging on an agreement." The issue was "a provision setting out rules under which law enforcement agencies could share wiretap and grand jury information with intelligence agencies." Leahy had been under the impression that his negotiations with the White House had produced an acceptable compromise; suddenly he discovered the compromise had been rejected. As Leahy balked, "Attorney General John D. Ashcroft accused the Democratic-controlled Senate of delaying legislation that he says is urgently needed to thwart another terrorist attack." The Senate, Ashcroft said, "was not moving with sufficient speed." "Talk," he complained, "won't prevent terrorism," adding that he was "deeply concerned about the rather slow pace" at which the legislation was moving. The *Washington Post* reported that Tom Daschle supported Leahy and said that Daschle "doubted the Senate could take up the legislation before next week." In other words, both Leahy and Daschle intended to violate Cheney's October 5 deadline. Leahy and Daschle were the only senators mentioned by name in the *Post* discussion.

Although this act of resistance may seem trivial to us today, it was clearly not trivial at the time. Shortly after the October 5 date passed without enactment of the bill, letters containing anthrax spores were sent to Senators Leahy and Daschle. These letters were put in the mail sometime between October 6 and 9. [25]

With these letters in the mail, the drama of the Patriot Act was evidently not over.

After the Senate's passing of the bill on October 11 the Patriot Act was still not secure. The Senate and House had passed somewhat different versions of the bill and it was necessary to work out a way of harmonizing the different versions and then getting new votes on the harmonized bill in both houses.

On October 15, *Roll Call*, a Washington newspaper dedicated to reporting news related to Capitol Hill, had as its front page headline: "HILL BRACES FOR ANTHRAX THREAT." [26] Sure enough, later that day Leslie Grant, an intern working for Daschle, opened a letter to the senator to find two grams of *B. anthracis* spores along with the following text: [27]

"09-11-01

YOU CAN NOT STOP US.

WE HAVE THIS ANTHRAX.

YOU DIE NOW.

ARE YOU AFRAID?

DEATH TO AMERICA.

DEATH TO ISRAEL.

ALLAH IS GREAT." [28]

Allah's advocates, it seemed, had taken a sudden dislike to Democratic senators who violated the Vice-President's deadlines.

The preparation of anthrax spores in the Daschle letter was, unlike the text of the letter, extremely sophisticated. Due to the aerosolized (“floaty”) nature of the prepared spores, a characteristic not easily achieved since in nature the spores tend to clump, many people in the Hart Senate building tested positive for exposure. There was general shock as it was discovered that the spore preparation, behaving essentially like smoke, had quickly drifted off and contaminated much of the building.

The Hart Senate building had to be closed and the senators with offices there relocated. Much of the work by members of Congress to harmonize the two versions of the Patriot Act was carried out in unsettled conditions—in some cases in temporary quarters with limited computer access by senators writing on pads of paper.[29]

Journalist Colbert King summed up the disturbance to Capitol Hill.[30] Noting that an aim of terrorism is “to instill feelings of fear and helplessness in citizens,” he said:

“...the perpetrators of the anthrax terror hit pay dirt in Washington. They’ve managed to accomplish what the British tried to generate with their burning of the White House, the Capitol and other government buildings in 1814—what Lee Harvey Oswald couldn’t deliver in 1963—and what the Pentagon attackers sought to but couldn’t provoke on Sept. 11: a sense of vulnerability and danger so great that it disables and fundamentally alters the way the nation’s capital does its business.”

“Anthrax,” he added, “caused the House of Representatives to flee town; it closed Senate office buildings; unprecedented actions.”

Finally, on October 26, after all the theatre and the threats, George W. Bush signed the bill into law. As he did so, he did not hesitate to add the anthrax attacks to the crimes of 9/11 and to imply that they had been carried out by the same perpetrators:[31]

“The changes, effective today, will help counter a threat like no other nation has ever faced. We’ve seen the enemy, and the murder of thousands of innocent, unsuspecting people.

They recognize no barrier of morality. They have no conscience. The terrorists cannot be reasoned with. Witness the recent anthrax attacks through our Postal Service.”

Immediately after the passing of the Patriot Act the anthrax story, less resilient than the 9/11 fiction, went into free fall collapse. It became clear that, despite the repeated attempts in October to blame the attacks on al-Qaeda and Iraq, the spores had been prepared in a U.S. laboratory serving the military and intelligence communities. This was admitted by the FBI and Homeland Security by the end of 2001 and has not been seriously challenged in the years since then.[32]

As to who, precisely, the anthrax perpetrators were, the debate continues. The FBI has spent years trying to convince the world that a scientist (Dr. Bruce Ivins) from the United States Army Medical Research Institute of Infectious Diseases was the “lone wolf” perpetrator. But that claim, never tested in court because of Ivins’ sudden death just before he was to be charged, has crumbled to dust in the last few years. It simply cannot be made to fit with the evidence.[33]

We would do well to ask who wanted Afghanistan and Iraq in the crosshairs and worked very hard throughout October of 2001 to falsely blame al-Qaeda and Iraq for the anthrax attacks. *And we might also ask who wanted the American people controlled and spied upon and worked so hard to get the Patriot Act passed as one lethal threat after another arrived.*

In my view, the answers to these questions are quite clear. Although the perpetrators had a wide circle of friends and collaborators, this circle included the highest members of the executive branch of government. In the anthrax attacks, and in the 9/11 attacks to which they were linked,[34] the executive branch threatened to kill the legislative branch. It is hard to imagine a greater insult, and a greater danger, to the U.S. Constitution and to the future of democracy generally.

Graeme MacQueen, now retired, is a former Director of the Centre for Peace Studies at McMaster University in Hamilton, Ontario. This essay is adapted from his new book published by Clarity Press, *The 2001 Anthrax Deception: The Case for a Domestic Conspiracy*.

Notes

1. Tom Daschle and Michael D'Orso, *Like No Other Time: The 107th Congress and the Two Years That Changed America Forever* (New York: Crown Publishers, 2003), 107 ff.
2. *Ibid.*, 110.
3. *Ibid.*, 110 ff.
4. *Ibid.*, 118.
5. *Ibid.*, 117.
6. Richard Morin, "Almost 90% Want U.S. To Retaliate, Poll Finds," *The Washington Post*, September 12, 2001.
7. Daschle and D'Orso, *Like No Other Time: The 107th Congress and the Two Years That Changed America Forever*, 125.
8. John Ashcroft and Mueller, "Attorney General John Ashcroft Remarks: Press Briefing with FBI Director Robert Mueller" (FBI Headquarters, September 17, 2001), https://w2.eff.org/Privacy/Surveillance/Terrorism/20010917_ashcroft_mueller_state_ment.html.
9. "History Commons: 2001 Anthrax Attacks," *History Commons*, n.d., <http://www.historycommons.org/project.jsp?project=2001anthraxattacks>. September 17-18, 2001: First Wave of Anthrax Attacks Targets ABC, NBC, CBS, New York Post, and National Enquirer.
10. John Lancaster and Walter Pincus, "Proposed Anti-Terrorism Laws Draw Tough Questions; Lawmakers Express Concerns to Ashcroft, Other Justice Officials About Threat to Civil Liberties," *The Washington Post*, September 25, 2001.
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12. Dana Milbank, "More Terrorism Likely, U.S. Warns; Bush Wants National Airport Reopened," *The Washington Post*, October 1, 2001.
13. *Ibid.*
14. Jeanne Guillemin, *American Anthrax: Fear, Crime, and the Investigation of the Nation's Deadliest Bioterror Attack* (New York: Henry Holt and Company, 2011), 18.
15. Graeme MacQueen, *The 2001 Anthrax Deception: The Case For a Domestic Conspiracy* (Atlanta, GA: Clarity Press, 2014), chap. 6.
16. Richard Cohen, "How Did I Get Iraq Wrong?," *Slate*, March 18, 2008.
17. Sandra Sobierai, "White House Mail Machine Has Anthrax," *Washington Post*, October

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18. Eric Pianin, "Ridge Assumes Security Post Amid Potential For New Attacks; FBI Warns Public, Private Entities To Observe 'Highest State of Alert,'" *The Washington Post*, October 9, 2001.
19. Spencer S. Hsu and Carol D. Leonnig, "Lawmakers Seek Ways To Secure U.S. Capitol; Temporary Street Closings; Pop-Up Barriers Considered," *The Washington Post*, October 10, 2001.
20. Dan Eggen and Bob Woodward, "Terrorist Attacks Imminent, FBI Warns; Bush Declared Al Qaeda Is 'On the Run'; Assaults on U.S. Called Possible in 'Next Several Days,'" *The Washington Post*, October 12, 2001.
21. MacQueen, *The 2001 Anthrax Deception: The Case For a Domestic Conspiracy*, chap. 7.
22. "History Commons: US Civil Liberties: Patriot Act: April 25, 1996: New Anti-Terrorism Law Passed," n.d., http://www.historycommons.org/timeline.jsp?timeline=civilliberties&civilliberties_patriot_act=civilliberties_patriot_act.
23. Daschle and D'Orso, *Like No Other Time: The 107th Congress and the Two Years That Changed America Forever*, 135.
24. John Lancaster, "Anti-Terrorism Bill Hits Snag on the Hill; Dispute Between Senate Democrats, White House Threatens Committee Approval," *The Washington Post*, October 3, 2001.
25. "History Commons: 2001 Anthrax Attacks," October 6-9, 2001: Second Wave of Anthrax Attacks Targets Senators Daschle and Leahy.
26. John Bresnahan, "Hill Braces For Anthrax Threat," *Roll Call*, October 15, 2001.
27. Daschle and D'Orso, *Like No Other Time: The 107th Congress and the Two Years That Changed America Forever*, 147.
28. MacQueen, *The 2001 Anthrax Deception: The Case For a Domestic Conspiracy*, chap. 5.
29. See, for example, Tish Schwartz, Chief Clerk/Administrator, House Committee on the Judiciary, "Effects of the Anthrax Attacks on the Drafting of the USA PATRIOT Act." History, Art & Archives, United States House of Representatives <https://www.youtube.com/watch?v=M51REqSsy9A>
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32. MacQueen, *The 2001 Anthrax Deception: The Case For a Domestic Conspiracy*, chap. 5.
33. Ibid.
34. MacQueen, *The 2001 Anthrax Deception: The Case For a Domestic Conspiracy*. The linking of 9/11 and the anthrax attacks is a major theme in this book.

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