

THE OTHER SOURCES FOR THE HATFILL STORIES

Over a month ago, I noted an LAT article naming three of the sources for the reporting that Steven Hatfill was a "person of interest" in the anthrax investigation. But it appears that Hatfill didn't learn all of the sources—Judge Walton is preparing to hold at least one reporter in contempt for not revealing the sources for her Hatfill reporting.

A federal judge said Tuesday he will hold a former USA Today reporter in contempt if she continues refusing to identify sources for stories about a former Army scientist under scrutiny in the 2001 anthrax attacks.

U.S. District Judge Reggie B. Walton said reporter Toni Locy defied his order last August that she cooperate with Steven J. Hatfill in his lawsuit against the government. Walton indicated he would impose a fine until she divulged her sources, but that he would take a few more days to decide whether to postpone the penalty as she pursues an appeal.

The judge is also considering whether to find former CBS reporter James Stewart in contempt.

[snip]

Walton previously ordered five journalists to reveal all of their sources. Stewart and Locy refused, saying Hatfill was partly to blame for news stories identifying him as a suspect after his attorney provided details about the investigation.

The story is interesting for two reasons. First,

it seems to pinpoint who shared their sources (after reportedly being released to do so) and who didn't. Judge Walton compelled testimony from five journalists—Michael Isikoff, Daniel Klaidman, Allan Lengel, Toni Locy, and James Stewart—and Locy and Stewart are the only two for whom he is considering contempt.

Also, as I pointed out last month, Hatfill now appears to have the sources for leaks that actually weren't that damaging—stories that made it clear that Hatfill was just one of a number of people under suspicion for the attack.

This is where this suit will get interesting. Many of the stories that Hatfill named in his suit complained about the revelation of facts pertaining to ongoing FBI searches: news that dogs searching for anthrax had responded to locations on Hatfill's property.

The agents quietly brought the dogs to various locations frequented by a dozen people they considered possible suspects — hoping the hounds would match the scent on the letters. In place after place, the dogs had no reaction. But when the handlers approached the Frederick, Md., apartment building of Dr. Steven J. Hatfill, an eccentric 48-year-old scientist who had worked in one of the Army's top bioweapons-research laboratories, the dogs immediately became agitated, NEWSWEEK has learned. "They went crazy," says one law-enforcement source. The agents also brought the bloodhounds to the Washington, D.C., apartment of Hatfill's girlfriend and to a Denny's restaurant in Louisiana, where Hatfill had eaten the day

before. In both places, the dogs jumped and barked, indicating they'd picked up the scent. (Bloodhounds are the only dogs whose powers of smell are admissible in court.)

The same article even states that the government didn't have anything that it considered real proof against Hatfill.

But officials say they aren't close to making any arrests in the case. "We're still a long way from any proof that we could take into court," says one senior official.

[snip]

Officials have been particularly careful to point out that Hatfill is one of "around 12" people they are looking at. They say he is not a suspect, or even a target of the investigation.

So it's not like this article pinpointed Hatfill as the one target of the investigation—it did just the opposite.

Which is why I think things might get interesting from here. I'm not actually sure what the standard of secrecy for non-grand jury material is. But some of the stories Hatfill points to—and therefore the leaks—don't support the case that the leaks pinpointed him and therefore ruined his career. Perhaps the government will settle to make this go away, but perhaps not; perhaps the government will push this trial, which might lead to more disclosure, rather than less.

Which raises questions about why three of the

government's sources would release reporters and up to seven others wouldn't (Locy claims she has forgotten which of the ten people she spoke to were her sources, and Stewart says he shouldn't have to reveal his sources since other law enforcement officers are on the hook already for the leaks). Is it possible the remaining sources are the really damaging ones?

Interestingly, Judge Walton seems to have little patience with journalists, like Locy, who can't pinpoint their sources for a story.

"I'm not suggesting that Ms. Locy would not be truthful, but it would be convenient for reporters in this type of situation to say 'I don't remember' and then be off the hook," Walton said. "That would be one way to avoid the serious consequences of the law."

Judy Miller, of course, pretty much got "off the hook" for the sources for much of her reporting on Valerie Wilson. She had to reveal Libby, as her first source for Valerie's identity, though she never had to reveal the people who told Judy that Valerie worked under the name, "Flame." Of course, Fitzgerald and Judge Hogan were the ones making the decision to let her off the hook, not Walton; Walton just had to sit and watch Judy say, "I don't remember" over and over again for a full day of testimony.