

The oversight joke

The FBI director appears at a House hearing expressly designed to get answers on the anthrax investigation. As always with congressional hearings, no answers are obtained.

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FBI Director Robert Mueller is testifying before the House Judiciary Committee today, currently [live-streamed on C-SPAN](#). An [article this morning in *The Washington Post*](#) dramatically touted the hearing as one in which, as the headline put it, "Lawmakers Are Seeking Answers in Anthrax Case -- FBI's Mueller to Be Queried by House Panel About Evidence Against Researcher." The article itself claimed that "the strength of the government's evidence against Bruce E. Ivins . . . will be tested anew today when FBI Director Robert S. Mueller III appears before the House Judiciary Committee" and:

House Judiciary Committee Chairman John Conyers Jr. (Mich.) and two other Democrats on the panel have signaled they will scrutinize the FBI's work today. This month, they wrote Mueller asking about missteps in identifying the anthrax strain used in the attacks and tracing it back to Ivins.

But after just an hour of the hearing, it is painfully clear that -- as is true in virtually all of these hearings now before a pitifully powerless Congress -- Mueller won't provide the Committee with even a single answer of import, won't even pretend to, and the Committee has no intent to compel him to do so. Indeed, the hearing began with an angry statement from Chairman Conyers about the fact that the FBI, in general, simply ignores all inquiries for information and answers from the Committee for months and months and months and then shows up at these hearings unprepared to answer even the questions they are advised will be asked, knowing that each member only has five minutes and can't actually accomplish anything.

In response, Mueller, with palpable boredom at Conyer's angry outburst, dutifully recited a series of standard bureaucratic buzz-phrases about how the FBI endeavors to respond to the Committee's inquiries as promptly and fully as possible, how he is happy to meet with Committee members to address their concerns, how the need to carefully scrutinize the Bureau's responses makes delays inevitable, etc. etc. In response, Conyers literally pleaded with Mueller to be more forthcoming in the future, observed that the hearing was likely to be worthless -- it's certainly hard to argue with that -- and then assured Mueller that Conyers "wasn't trying to force you to give this information." Your impotent Congress in a nutshell.

Vividly illustrating this impotence in the anthrax context, Rep. Jerry Nadler of New York used his five minutes to ask Mueller about several of the most glaring holes in the FBI's case against Bruce Ivins. Nadler specifically focused on the fact that scientists (including in the FBI) had long claimed that the anthrax sent to Sen. Daschle was dried anthrax that had been coated with silica and was thus far too sophisticated for Ivins to have prepared, only for the FBI suddenly to reverse itself recently and claim that the anthrax was not coated with silica but had, instead, simply naturally absorbed silicon from the air.

Nadler had various good questions about that -- including wanting to know the level of concentration of silica found in the anthrax (since, if it were higher than 1/2 of 1%, it would mean it was impossible for it to have been naturally absorbed). Mueller's response: I don't know the answers to those questions. I'll have to get back to you at some point.

Nadler then asked one of the most central questions in the anthrax case: he pointed out that the facilities that (unlike Ft. Detrick) actually have the equipment and personnel to prepare dry, silica-coated anthrax are the U.S. Army's Dugway Proving Ground and the Battelle Corporation, the private CIA contractor that conducts substantial research into highly complex strains of anthrax. Nadler asked how the FBI had eliminated those institutions as the culprits behind the attack. After invoking generalities to assure Nadler that the FBI had traced the anthrax back to Ivins' vial (which doesn't answer the question), Mueller's response was this: I don't know the answers to those questions as to how we eliminated Dugway and Battelle. I'll have to get back to you at some point.

After those two fruitless lines of inquiry, Nadler's time was almost up, and he then pleaded: please try to get back to us with these answers quickly. Mueller said: "Oh, absolutely Congressman."

Nadler then ended by asking whether Mueller would object to an independent commission or other body to review the FBI's evidence and its accusations against Ivins and whether the FBI would cooperate with such an independent inquiry. Mueller pretended to answer by telling Nadler that the FBI intended to ask some members of the National Academy of Science to review the FBI's scientific claims, but that didn't answer the question as to whether the FBI opposed a full-scale independent review of the FBI's case and whether the FBI would cooperate with it. Nadler then noted his time was up and a Republican member then began asking about The Grave Threats Posed by The Terrorists in order to justify the [FBI's imminent, new domestic surveillance powers](#), with not a single new fact -- literally not one -- disclosed about the anthrax investigation, despite Nadler's perfectly relevant questions.

Keep in mind that Mueller, as the *Post* article demonstrated, was obviously well aware that a major reason for the hearing was to get answers to these very questions about the anthrax investigation ("The strength of the government's evidence against Bruce E. Ivins . . . will be tested anew today when FBI Director Robert S. Mueller III appears before the House Judiciary Committee"). Last month, I [interviewed Sen. Charles Grassley](#) -- a leading skeptic of the FBI's case -- and these questions about silica were among the key questions that he said should be answered. It's one of the key flaws in the FBI's case -- that Ivins' own supervisor states categorically that he could not have prepared that anthrax. But Mueller purposely showed up without any of the answers that he knew in advance the Committee members would be seeking. The whole thing is nothing more than a ruse, an absurd ritual, where helpless and powerless members of Congress demand information that they never get and never will.

This has been going on for years now during the Bush era, where the Executive has made its contempt for Congress as transparent as possible and Congress has meekly accepted its laughably impotent role. [Here is what I](#)

wrote in January, 2007 after watching the first couple hours of then-Attorney-General Alberto Gonzales testifying before the Senate Judiciary Committee in what had been previewed as a very intense and confrontational hearing between angry Senators from both sides of the aisle and a besieged Attorney General:

The inanities one observes when watching Congress in action exceed those which one finds anywhere else on the planet outside of the right-wing blogosphere. At today's Senate Judiciary Committee hearing to which I am currently (and quite temporarily) subjecting myself, starring Alberto Gonzales . . . this is what I have learned so far: All of the Senators are very "concerned" and sometimes even "disturbed" about many things, almost all of them different for each Senator. Gonzales definitely shares their concerns about everything, and assures them he takes it very seriously and he is happy to sit down with them and explore ways to fix/improve/think about it.

For any information the Senators want, Gonzales does not have it, but he will definitely endeavor to get it for them. When pointed out that he has made the same promises many times before and told them nothing, he assures them they are entitled to it and will have it (sometimes he politely denies ever having promised it before but then says he will get it anyway).

Replace "Senate" with "House" and "Gonzales" with "Mueller" and you have a perfect description of what has happened -- and surely for the rest of the day will happen -- today. On a ceremonial level, Congress exists, passes laws, and asks questions of the Executive Branch, but on the level of reality, it couldn't be less meaningful. Mueller is exhibiting his contempt for the right of Congress to get answers because he knows he can without consequence, so why wouldn't he?

This isn't the fault of any one member of Congress. Some of them are being fairly aggressive (at least in tone) about trying to get answers regarding the very dubious anthrax case and even proposing the creation of an independent, subpoena-endowed commission to investigate. Some ask the right questions at these hearings and some display what appears to be genuine indignation that they're never answered. Mueller will appear tomorrow before the Senate Judiciary Committee with anthrax target Pat Leahy, Chuck Grassley and Arlen Specter all having expressed real doubt about the FBI's case, so the tone will probably be angrier and more aggressive, but not much else will be different.

The Congress itself, under both parties, has allowed itself to be removed from our system of Government, completely stripped of any meaningful power, and the Bush administration is well aware of that, well aware that there is no real oversight of anything it does. There are an increasing number of people in wide-ranging circles expressing severe skepticism about the FBI's claims about the anthrax attacks, but -- absent some extreme step by Congress -- it is very hard to envision there ever being any real answers.