

Unknown DNA sample obtained, but not provided during Oklahoma City bombing investigation

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OKLAHOMA CITY — Has Oklahoma failed to honor one of the victims in the Oklahoma City Bombing? Or did investigators sit on the crucial clue to the identity of another conspirator for nearly two decades? These are questions about the bombing case many thought was closed years ago.

Fox 25, working with The Washington Times, has confirmed that Oklahoma officials have a DNA profile that was never identified from the April 19, 1995 bombing of the Alfred P. Murrah Federal Building. That DNA sample came from an unmatched left leg found at the scene of the bombing.

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Oklahomans will likely remember the controversy surrounding the leg back in the late 1990s. Originally an unmatched leg was identified as a misidentified body part that actually belonged to the known bombing victim, Airman First Class Lakesha Levy. Levy's body was exhumed to replace the leg and officials discovered she had been buried with the wrong left leg. That leg was never identified.

The government argued the leg was not identified because of a paperwork error. In testimony and reports filed for the multiple trials of both Timothy McVeigh and Terry Nichols investigators said it was not possible to obtain DNA from the sample. At McVeigh's trial, his attorney Stephen Jones argued the leg was proof of a third conspirator.

"We had no DNA evidence at the trial and the government didn't test for DNA evidence or if they did test for it they didn't tell us the result they didn't let us know," Stephen Jones, the attorney for McVeigh, told Fox 25.

It turns out the state did have a DNA profile. The Oklahoma State Medical Examiner's office confirms it is in possession of a DNA profile, along with tissue samples from the leg. Amy Elliott, the Chief Administrative Officer, told Fox 25 the sample was compared to 10 known victims but it did not match any of those people. Elliott, who was not with the office in 1995, said she does not know what process was used to determine which victims were compared to the sample.

Fox 25 also contacted attorneys who represented Terry Nichols for his state trial. Those attorneys say they do not recall ever being provided a DNA sample from that unmatched leg.

Lou Keel, one of the Oklahoma County district attorneys who prosecuted Nichols, said he was unaware if a DNA test was every performed on the leg; or if was even possible to run a DNA test on the leg.

How did the existence of an unknown DNA sample not emerge in the 20 years since the bombing? There may not be an answer to that question, but Jeffrey Scott Shapiro with The Washington Times told Fox 25 "It is my understanding that the relationship between Oklahoma City and federal authorities was quite contentious during the Oklahoma City bombing investigation and the trials."

"We have here, people that today still walk unaccountable for the crimes committed in Oklahoma City," Jones said. He believes the DNA profile does not belong to victim 169, but rather to the man multiple witnesses saw with McVeigh before the bombing.

"The government was not able, despite the most expensive FBI investigation on record then, could find anyone that claimed to have seen just Tim McVeigh downtown," Jones said, "But there are probably two dozen people who claimed to see Tim McVeigh and at least one other person."

Once secret FBI documents obtained as part of a Freedom of Information request by a Utah attorney,- and part of his on-going lawsuit against the government related to the bombing, reveal the potential of a video showing another man with McVeigh when he delivered the truck bomb.

The records show national media outlets were approached in 1995 about purchasing the video from an FBI source. The FBI memo states the video being offered for sale showed McVeigh driving up and walking away. After McVeigh exits, another man is seen "exiting the passenger side of the Ryder truck and walking to the back of the truck." That man walks out of the camera's view before the blast happens.

"There is no reported disappearance of someone that hasn't been found that was in or around Oklahoma City at that time," Jones said of his theory the leg belongs to the third conspirator.

However, government investigators have insisted McVeigh and Nichols acted alone in the bombing.

The Oklahoma City field office for the FBI told Fox 25 the national office would have to respond to our questions about the unknown DNA profile. In a statement, Special Agent Ann Todd confirmed the last known tests on the leg, identified as P-71 (for "part-71") was performed in 1997.

"Without reviewing the investigative case file---which is not readily available---the Laboratory has no way of knowing if additional DNA analysis was conducted after 1997," Agent Todd wrote, "It is the mission of the FBI Laboratory to apply scientific capabilities and technical services to the collection, processing, and exploitation of evidence in support of investigative and intelligence priorities. When a request is received by the FBI Laboratory to analyze cold case evidence---or evidence from older cases---with current scientific capabilities, communication occurs between the investigators and FBI scientists to evaluate whether current technologies can be applied. Exhaustive efforts were made by the FBI to identify the left leg known as P-71. Investigators will follow-up with officials from the Office of the Chief Medical Examiner to obtain a copy of the DNA analysis, conducted by the private lab, and determine its validity to the case."

Jones believes this newly revealed unknown DNA profile proves there was no paperwork error or mix up with the remains. Jones wants the government to re-open the investigation to solve the mystery.

"If the government were to reopen the investigation and actively pursue it, it doesn't negate what the government did with Mr. McVeigh or Mr. Nichols or for that matter with the Fortiers, you don't re-try McVeigh after he's been executed," Jones said.

"I don't think it is ever time to put any investigation to rest when it remains unsolved and the information could be important to the American public," said Shapiro, who uncovered the existence of the unknown DNA sample, " This was probably the single most significant domestic act of terrorism in the United States history. If there is a possibility that there was a broader conspiracy; if there is a possibility there were other terrorists involved, I think it is crucial the American public knows that."