

Proposed testimony of Barry Black

Last week I was asked to consider the status of the unknown subject responsible for placing improvised explosive devices (IEDs) outside the offices of the Democratic National Committee and the Republican National Committee on January 5, 2021. Three years later, no one has been charged. After a 31-year career, I retired from the FBI in 2019. So obviously, I wasn't present for the events of January 6. But I am familiar with how IED responses and post blast investigations are conducted.

After my retirement I accepted a position at a leading Forensic Science Institute teaching university classes on crime scene processing and the forensic investigations of mass disasters. One thing I discuss with my students is what is known as the "CSI Effect." Television shows and popular media tend to show trace evidence and forensic science techniques being used to quickly solve almost every crime. These techniques are extremely useful, but don't always produce viable investigative leads.

Bombing investigations are unique and many things must happen simultaneously. At the scene itself, action is taken to render the device safe. The ideal render safe solution is situationally dependent and derived from training and experience. It may include a wide range of specialized tools that dynamically impact the device in specific ways in an effort to prevent it from functioning as designed. If the render safe procedure is successful, the components of the device are separated, collected as evidence, and submitted for forensic examinations. In a post blast incident where the device has already functioned, evidence is collected and similarly processed.

For major cases, evidence is expedited to the FBI's laboratory for analysis. I've had cases where evidence was flown on Bureau aircraft directly to the lab. I imagine, due to its proximity to the scene, evidence from the January 6 devices would have been driven to the Lab and hand delivered.

But just as important as the physical processing of the scene is a broader investigation that occurs outside the scene. Often critical leads are developed by locating and interviewing eye witnesses, reviewing surveillance images, and exhausting other investigative methods while the physical evidence from the scene is being collected and processed for forensic examination.

Despite the CSI Effect, viable forensic evidence simply may not be present, or meaningful given currently available technology. Environmental conditions, harsh conditions created during render safe procedures, and intentional efforts the perpetrator may take to reduce or eliminate trace evidence can negatively impact the availability of forensic evidence. We've all heard of instances where a suspect wipes down a murder weapon to destroy latent fingerprints, or wears gloves to avoid leaving trace evidence at all. That is why the broader external investigation is critical. Out of the universe of potential suspects, investigators often need a single thread in order to unravel the entire case.

By way of example, Eric Rudolph, the Olympic bomber, detonated 4 IEDs over a two-year period. He was not identified by post blast forensics or cross referencing device characteristics. It took eye witnesses that reported seeing a suspicious man in a pickup truck near the Birmingham clinic prior to the blast. Those eye witness tips were the thread that led to Rudolph, not forensic evidence.

Similarly, Ted Kaczynski, the Unabomber, was active for 17 years. Despite extremely thorough forensic examinations of all the post blast evidence from more than a dozen devices, his identity remained illusive. Kaczynski went to great lengths to deny investigators forensic evidence and he was very effective. Over 100 investigators, scientists, and analysts worked that investigation and covered hundreds of leads. But he was only identified when his brother recognized his writing style in a published manifesto. The brother's tip about the manifesto was the thread that led to Kaczynski, not forensic evidence.

I once responded to the bombing of an US Air Force recruiting station. As we collected the remains of the IED and physically processed the scene, other Agents began conducting interviews. Several witnesses reported seeing a man on a red racing motorcycle driving erratically in the area before and after the blast. Interviews of Air Force personnel identified a disgruntled employee; a DMV check revealed he owned a red racing motorcycle. That thread allowed us to concentrate on a single individual. We executed a search warrant on his apartment the following day and recovered two more time bombs. Forensic examinations were then used to tie the post blast evidence to the devices recovered in the apartment.

In the Oklahoma City bombing, an eye witness provided a description of the man who rented that Ryder truck. A sketch based on his description led us to the Dreamland Motel where we learned of the name Timothy McVeigh. That eye witness thread allowed us to combine physical, forensic, and documentary evidence in order to prove the case.

One witness thought a second man may have been with McVeigh at the Ryder rental shop. The witness described a unique style of baseball cap worn by this second man. Over 8,000 man-hours were expended in order to identify this individual who, by the way, had nothing to do with the bombing. But part of the investigation into the man's identity included tracing where that unique ball cap was made and sold.

As for the investigation related to the January 6 devices, I have reviewed publicly available information. The devices appear to have been constructed from common materials available for purchase almost anywhere. This makes identifying their source difficult without further information. Similarly, published images of the suspect seem to indicate intentional efforts were taken to hide identifying characteristics that would aid in eye witness identification; a hooded sweatshirt, face mask, glasses, and gloves. The individual's shoes were unusual. So, just as with the cap in the OKBOMB investigation, efforts were focused on the unique shoes; the only unusual article worn by the subject.

A year after the event (2022), the Assistant Director in Charge of the FBI Washington Field Office told ABC news the Bureau had conducted over 900 interviews, collected 39,000 video files, and received 400 tips. Just this past January (2024), the current Assistant Director in Charge indicated thousands of man-hours had been expended in the intervening three years conducting interviews, reviewing physical and digital evidence, and assessing tips.

That is the type of investigative effort I would expect. But once all physical evidence is exhausted and all viable leads are covered, new information is required. It took tips, not forensic evidence, to point investigators to Eric Rudolph and Ted Kaczynski. Given sufficient information and a place to start, forensic and other investigative techniques can then be brought to bear in order to build a successful case.

As for the January 6 devices, it appears the perpetrator intentionally concealed their physical appearance, wore gloves to limit trace evidence, and avoided any unique components in the construction of the IEDs that could lead to their point of origin. Someone may yet have a single piece of information that will move the investigation forward. But as I said in a 2021 interview about this case, these investigations take time. It's not like TV shows where complex cases are solved in an hour.