

Boston Police Department takes new look at bomb case

1991 blast reviewed amid questions and juror doubts

By Jessica Fargen and Peter Gelzinis | Sunday, November 22, 2009 | <http://www.bostonherald.com> | **Local Coverage**



The **Boston Police** Department has quietly reviewed the investigation into an 18-year-old Roslindale bombing that left a heroic bomb squad cop dead and maimed another, the Herald has learned.

The rare move comes as the convicted bomber, Alfred W. Trenkler, awaits a response from federal prosecutors on his latest bid for a new trial. Nine days ago, he was abruptly removed from a Bay State prison and is en route to a penitentiary 2,700 miles away.

Trenkler, 53, was convicted along with another man in the 1991 bombing that killed BPD officer Jeremiah J. Hurley and injured his partner, Francis X. Foley.

Trenkler has long maintained his innocence, but federal prosecutors and many in law enforcement believe firmly in his guilt.

The move by the BPD to take a second look at the case, amid new questions raised by an advocate for Trenkler, has left Hurley's courageous widow conflicted.

Cynthia Hurley told the Herald that each bid by Trenkler to get a new trial is "torture," but she also made clear that if any evidence exists that would cast doubt on his guilt, she wants to know about it.

"I do not want anybody in prison who doesn't belong there," Hurley said in an interview at her Hyde Park home this week. "If there is evidence let's find it. Let's hear it."

Hurley, whose daughter is a Boston cop, said two Boston police superior officers visited her nine months ago and told her they had questions about the case and were taking a second look.

"I came away thinking there was something out there," Hurley said.

The two BPD higher-ups had read a copy of "Perfectly Innocent," a 700-page manuscript by Morrison Bonpasse, a fierce and studious Trenkler supporter, and were struck by the content.

Top BPD officials sent the manuscript to the U.S. Attorney's Office in Boston in September, a spokeswoman said. It was reviewed by the chief of its public corruption unit, Brian T. Kelly.

After an inquiry by the Herald, Kelly's boss, newly appointed U.S. Attorney Carmen Ortiz, said: "We have found nothing that undermines our confidence in the guilty verdict." Kelly's review itself was not made available to the Herald.

On the heels of that statement late Thursday, BPD commissioner Edward Davis issued a statement to the Herald saying, "In recent conversations the United States Attorney's Office has advised us that all of these concerns have been properly vetted by the court. I have confidence in their review."

History of the case

Prosecutors argued at Trenkler's 1993 federal trial that he built the deadly bomb for Thomas Shay Jr., his friend and alleged lover.

They alleged that Shay wanted to kill his father, Thomas L. Shay Sr., to retaliate for abuse and cash in on insurance money. The bomb was placed under Shay Sr.'s 1986 Buick. It exploded as patrolman Jeremiah Hurley tried to dismantle it in Shay Sr.'s driveway.

Shay Jr.'s defense attorney argued that Shay Sr. was the culprit, but jurors were not convinced. Shay Jr. was sentenced to 16 years in prison. Trenkler got two life sentences for making the bomb.

For the past three years, Morrison Bonpasse, 62, a retired attorney from Maine, has waged a one-man campaign to have Trenkler's case retried, citing new evidence, alleged prosecutorial misconduct and flaws in the investigation.

Bonpasse says he is heartened by the BPD interest and by two other unexpected developments.

First, five jurors who read Bonpasse's book wrote impassioned letters to presiding U.S. District Court Judge Rya Zobel. The jurors now have doubts about the fairness of Trenkler's trial, they wrote.

Second, more than 500 pages of BPD and U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives documents from the early 1990s provided to the Herald under a public information request back up some of Bonpasse's claims.

The investigation was handled by the BPD and ATF. The new information, provided by the BPD, includes:

A May 1992 BPD memo showing that 24 fingerprints were taken from Shay Sr.'s vehicle. None of the prints matched up to Shay Jr. or Trenkler.

Two 1992 "investigative plans" drawn up by ATF agents list Shay Sr. as a suspect, along with his son and Trenkler. Shay Sr.'s "inconsistent, largely unbelievable story" and his uncooperativeness and evasiveness "during questioning" led police to label him a suspect, according to the plan.

Bonpasse claims the materials should have been made available to the defense at trial. "There were documents there the defense didn't have access to, that they didn't know they existed," he said.

Attempts to reach Shay Sr., 65, who still lives on Eastbourne Street in Roslindale, where the bomb went off, were unsuccessful. He did not return written messages left at his home and voicemail messages left over four days.

Shay Jr., 38, is serving a 33-month sentence in a Memphis, Tenn., prison for violating parole in the bombing case. He'll be released in January.

In addition to the new documents, Bonpasse claims there are other reasons to doubt Trenkler's guilt. He argues in his book:

Trenkler was convicted on circumstantial evidence. He was tied to the crime because he was a casual friend of Shay Jr.

Trenkler, a Wentworth Institute of Technology-schooled electrical engineer, was arrested in 1986 for building a bomb used in a Quincy explosion. A bomb expert testified that the Roslindale and Quincy bombs were built by the same person. An appeals court found in 1995 that the data used by the bomb expert was questionable and the government should not have admitted it as evidence. The dissenting judge called the data "utterly unreliable."

David Lindholm, a career criminal who was in jail with Trenkler, testified that Trenkler confessed to making the bomb. Bonpasse claims that the feds gave Lindholm a reduced sentence after the trial and that the alleged deal was not disclosed to the defense during Trenkler's 1994 appeal.

"This is new evidence we never knew about and the reason we never knew about it is the government withheld it from me and that is a mistrial right there," Trenkler told the Herald in a September phone interview from the Federal Medical Center Devens in Ayer.

Two passionate sides

Trenkler's efforts anger many in law enforcement, said Francis X. Foley, who lost sight in his left eye in the 1991 explosion. He is convinced Trenkler is guilty, calling him a "terrorist."

"I believe in my heart that he did it," the retired cop, 67, said in an interview this week in his West Roxbury apartment.

He also accepts that Trenkler will continue to question the case.

"This has been 18 years and it goes on and on. It never stops. They are going to go from one issue to another," he said.

Foley was not the only cop haunted by the blast. BPD rookie Denise Corbett, who witnessed the explosion, was so traumatized she committed suicide in 2006, cops and her family have said.

Five of the 12 jurors who convicted Trenkler have said they believe his trial was flawed, based on Bonpasse's book.

"I would think it would cause an instantaneous review of the case. I don't understand it," said jury forewoman Sheridan Kassirer of Wellesley.

When Kassirer wrote Judge Zobel in July last year she penned: "I am convinced he is innocent."

"I believe he certainly deserves another trial," juror Marcia Lapson of Brookline, who wrote Zobel in 2008, said in an interview.

Juror Marie O'Hare, 61, of Danvers said Bonpasse's book convinced her.

"(The jury) didn't get half the stuff I read about," she said in an interview. "I really think he's innocent and I really think he should be taken out of jail."

On Sept. 11 Trenkler filed an appeal with the U.S. Court of Appeals for the First Circuit trying to reverse a March decision to deny him a new trial. Trenkler claims the government "withheld exculpatory evidence" from his defense.

Ortiz was confirmed as U.S. Attorney in Boston on Nov. 5. Her office must respond to Trenkler's appeal by Dec. 1.

In her statement to the Herald, she indicated that she would fight Trenkler's bid for a new trial.

"It appears that Trenkler is simply rehashing old arguments and theories that have been rejected by a jury, the District Court and the Court of Appeals on numerous occasions," she said.

On Nov. 13, Trenkler was moved from Devens, bound for a prison in Arizona, his family says. Devens spokesman Robert Lanza said Trenkler was moved "as the result of an updated custody classification," but would not elaborate.

Bonpasse said Trenkler, who has a pacemaker, was told the transfer was for medical reasons. He said there was an "appearance of retaliation" for the move.

Trenkler's stepfather, Jack Wallace, is also suspicious.

“They want to move him out of the way so he’s in limbo when he has to respond to the government,” said Wallace, 83, of Milton.

Trenkler has four weeks to respond after Dec. 1, but Wallace said Trenkler will be in transit and won’t have access to his legal files.

Hurley’s memory endures

Today, Jeremiah Hurley’s family will gather at a church for an annual remembrance Mass marking 18 years since his death, said Cynthia Hurley.

“It tears your heart out,” said Hurley, a mother of four and grandmother of 10.

She said she has put her faith in Boston police and “can’t dwell on this.”

“I’ve come too far,” she said. “To maintain my sanity and keep my family together, we have to take each step that comes to us.”

Trenkler, in a speech during his 1994 sentencing, avowed his innocence, and did so again to the Herald. “I’m totally innocent of this whole thing,” Trenkler said.

Juror Robert W. Woods believes he convicted the wrong man and is “extremely disappointed” the case hasn’t been retried. Woods was one of the five jurors who wrote Judge Zobel, who was aware of the letters when she denied Trenkler a new trial in March.

“It makes me angry that the judicial system is so stilted that they really can’t revisit this,” Woods, 67, of Lynn told the Herald. “It bothers me the way the whole thing came out.”

Article URL: <http://www.bostonherald.com/news/regional/view.bg?articleid=1213657>