The Texas Fertilizer Explosion Cries Out for Justice
By Peter Dreier and Donald Cohen, June 2, 2013

Almost everyone in America knows the names of the two young terrorists responsible for the April 15 Boston Marathon bombings, but few can identify the owner of the fertilizer plant that exploded in West, Texas two days later. The media, along with government regulators and law enforcement agencies, poured much more time and resources into finding the two Tsarnaev brothers than they did in investigating Donald Adair.

Why isn’t the American public calling for the arrest and trial of Adair, the owner of the West Fertilizer Company in West, Texas? The explosion there on April 17 killed 14 people, left 200 others with injuries (including burns, lacerations, and broken bones), flattened houses and a 50-unit apartment building, destroyed a nursing home, damaged a local school, and left a crater 93 feet by 10 feet.

The explosion was so devastating that investigators, almost two months after the incident, are unable to definitively determine the exact cause of the explosion.

Adair lives five miles from West and attends a local church. He also owns Adair Grain (the parent company of West Fertilizer) and Adair Farms, including about 5,000 acres of cropland and grassland in the area, worth several million dollars. But while Adair might be a folksy local businessman who rescued the failing fertilizer plant, all the evidence points to the fact that he didn’t do enough to protect his employees and the surrounding community at risk.

After 9/11 companies like Adair’s were required to inform the government of chemicals that could be used in terrorist attacks. West Fertilizer stored large quantities of anhydrous ammonia and ammonium nitrate, in the middle of a small town. The company allegedly failed to tell the Department of Homeland Security that it was storing 270 tons of ammonium nitrate (the same chemical that Tim McVeigh used to bomb the Oklahoma city federal building in 1995, which left 168 people dead) as required by law.

The U.S. Pipeline and Hazardous Materials Safety Administration fined the factory in 1985 for mishandling storage of anhydrous ammonia. In 2011, the same agency cited the firm for “not having a security plan” and for improperly planning to transport anhydrous ammonia and issued a fine of $5,250.

The federal EPA last inspected the plant in 2006 and assessed a fine of $2,300 for failing to update a risk management plan.

The company responded in 2011 with an updated but misleading plan, stating that its chemicals did not pose a risk or fire or explosion, and claiming that the “worse-case scenario” was a 10-minute release of gas or a leak from a broken house, neither of them harmful to humans.

The company also reported contradictory information to state agencies. It filed reports with the Department of State Health Services that it had not stored ammonium nitrate on site until 2012. Yet it reported to the Texas Commission on Environmental Quality that it had a “maximum annual throughput” of 2,400 tons, or 4.8 million pounds of ammonium nitrate after the department found that it was operating without a permit.

Donald Adair ran a small fertilizer company that stored tons of highly explosive ammonium nitrate, failed to follow government safety guidelines and shirked his basic responsibility to prevent a foreseeable, preventable and tragic disaster.

Adair shares that responsibility with others. Corporate lobby groups have consistently opposed common sense safeguards for our food, consumer products, environment, drugs, and workplaces. They’ve spent billions of dollars in campaign contributions, lobbying and donations to conservative think tanks and front groups to oppose and weaken these and other safety laws and gut the budgets of government agencies set up to enforce them. Their resistance delayed life-saving protections for decades in some cases.
The chemical industry has been one of the most effective lobby groups in this regard. In the 1970s, for example, the industry lobbied Congress to prohibit OSHA from regularly inspecting workplaces with fewer than 10 employees in industries with low reported injury rates. Fertilizer plants are included on the list of exempted industries. This may be why OSHA hadn't inspected the West Fertilizer plant since 1985.

The chemical industry has been a major player in the political process, using its resources to influence policy and shape regulations. The industry has been successful in lobbying Congress to pass laws that benefit its members while minimizing the regulatory burden on the industry. For example, in 1981, OSHA proposed a rule requiring the chemical industry to disclose the presence of hazardous chemicals in their workplaces. The chemical industry opposed the rule, arguing that it would create a competitive disadvantage for businesses and increase the cost of doing business. The industry claimed that the rule would create unnecessary regulatory burden and would not significantly improve workplace safety.

The chemical industry has also been active in state-level lobbying. In Texas, for example, the industry has been successful in stopping legislation that would require companies to disclose the presence of hazardous chemicals in their workplaces. The industry has been successful in blocking legislation that would increase the penalties for violations of health and safety laws. The industry has also been successful in blocking legislation that would require companies to have workers' compensation insurance. The industry has been successful in blocking legislation that would require companies to have fire codes in place. In short, the chemical industry has been successful in using its resources to influence the political process and shape regulations that benefit its members.
$6,625. Corporations view these as just a cost of doing business, not a real deterrent.

Perhaps if corporate executives saw a significant number of their counterparts on the nightly news being handcuffed and sent to jail for violating laws meant to protect workers, consumers, and the environment, they would be more likely to make sure that their companies met the health and safety standards embodied in our laws.

**Peter Dreier** teaches politics and chairs the Urban & Environmental Policy Department at Occidental College. His most recent book is *The 100 Greatest Americans of the 20th Century: A Social Justice Hall of Fame* (Nation Books, 2012). **Donald Cohen** is the chair of In the Public Interest (http://www.inthepublicinterest.org/), a national resource center on privatization and responsible contracting. He is also the director of the Cry Wolf Project (http://www.crywolfproject.org/), a nonprofit research network that identifies and exposes misleading rhetoric about the economy, regulation and government.

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Ed Smith - Top Commenter - Yes n then some

Thanks for a great write-up.

I fully agree with FEMA not footing the bill for the west Fertilizer plant explosion, with TX deregulation and the fact that west Fertilizer plant only had one million in liability insurance and lied repeatedly concerning amounts and types of chemicals stored on-site and the way TX and Perry run the state fast and loose gambling the lives and homes of all TX citizens, I would not pay either.

If TX wants to gamble with deregulation and let its corporations do what ever that want to save money that's fine with me, just don't ask the federal government to bail you out when your gamble blows up in your face.

MrEthiopian

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