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FBI Crime Laboratory Being Probed

Scientist Alleges Conclusions Were Altered to Help Prosecute Cases

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The FBI, already grappling with a probe of possible criminal misconduct by senior bureau officials in the Ruby Ridge incident, yesterday acknowledged that the Justice Department is investigating complaints that workers in the bureau's crime laboratory have offered misleading or fabricated evidence in a number of major criminal cases.

The allegations were made by supervisory special agent Frederic Whitehurst, who has complained to his FBI superiors that lab work has been sloppy and that in some cases conclusions were altered to help the government's case. He aired some of his concerns publicly on Aug. 14 as a witness in a New York bombing conspiracy case, and now is being sought as a defense witness in the O.J. Simpson murder trial in an attempt by

Simpson's lawyers to cast doubt on the quality of laboratory analysis the FBI performed in the case.

The FBI yesterday said it was taking Whitehurst's allegations seriously. But in a statement, the bureau said it has recently reviewed lab work in more than 250 cases and "to date the FBI has found no evidence of tampering, evidence fabrication, or failure to report exculpatory evidence. . . . Any finding of such misconduct will result in tough and swift action by the FBI." The FBI release does not address specific cases raised by Whitehurst.

The quality of the FBI's laboratory work also came under harsh criticism in an independent Justice Department task force review of the Ruby Ridge case, in which the conduct of senior bureau officials is under scrutiny by federal prosecutors. The report cited prob-

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lems with the FBI lab as one of many impediments in the government's prosecution of Idaho white separatist Randy Weaver for the 1992 murder of a U.S. marshal. Weaver was acquitted of the charge in a case severely hampered by lack of FBI cooperation, the task force found.

The FBI lab conducts more than a million evidence examinations a year and its experts testify in hundreds of state and federal courts annually, bureau officials said. Noting that FBI laboratory examinations are "constantly subject to extraordinarily vigorous" challenges in court, one senior bureau source said if there was a pattern of shoddy work, the courts have not found it.

Whitehurst is a 13-year veteran of the FBI crime lab and has a doctorate in chemistry from Duke University. He served as top scientist for explosive residue analysis for seven years until early 1994, when his assignment was changed to "trainee" in paint analysis.

Whitehurst declined to be interviewed, but in a memo obtained by The Washington Post, Whitehurst cites a pattern of misconduct in the crime lab covering the last five years. He claims colleagues frequently would change his reports, at the time without his knowledge, to render them "incorrect" from his initial conclusions.

Whitehurst testified in another trial in August that in the World Trade Center terrorist bombing case several FBI investigators concluded that the bomb was urea nitrate-based even though it was impossible to prove that because the substance is so common.

Whitehurst said he complained to his superiors about the conclusions and the report was corrected. But he said when he first told his supervisor about the errors, the supervisor "became extremely loud and extremely angry. . . . He advised us that he would now have to embarrass his chemistry toxicology unit chief and that we were never, ever again to do something like that to him."

Whitehurst also has complained that two crime lab specialists were involved in "fabrication of evidence, perjury . . . and misconduct" in the 1991 trial of Walter Leroy Moody, who was later convicted of the mail bombing murder of U.S. Judge Robert Vance in Atlanta. That case was prosecuted by former deputy U.S. attorney Louis J. Freeh, now the FBI's director. Whitehurst's memo does not suggest that Freeh or other prosecutors pressured the lab in this case.



Frederic Whitehurst is a 13-year veteran of the FBI crime lab who was reassigned in 1994 to "trainee" in paint analysis.

Whitehurst said neither of the specialists was qualified to testify on the subject of explosive residue left over from detonated bombs. He also said they leaped to scientific conclusions about material in the case that amounted to fabricating evidence.

Several of Whitehurst's complaints involved the work of forensics expert Roger Martz, who also did lab work for the O.J. Simpson case and has testified as a prosecution witness. Bureau officials said Martz would not be allowed to comment.

Simpson's defense attorney Johnnie L. Cochran Jr. yesterday told Superior Court Judge Lance A. Ito that he will subpoena Whitehurst in an attempt to cast doubt on Martz's testimony.

Cochran said he will also recall Martz, who testified for the prosecution in July that blood found on a sock in Simpson's bedroom and at the murder scene showed only vague signs of a preservative that could have come from a variety of sources other than a test tube. The defense has suggested that blood samples taken from Simpson and the two murder victims could have been planted as part of a police conspiracy to frame the celebrity defendant.

Cochran told reporters yesterday that Martz will be recalled because the defense learned he is under investigation for allegedly "falsifying implicating evidence to slant to the bias of the prosecution in high-profile cases."

There was no indication that Ito will allow testimony from either Whitehurst or Martz, which Los Angeles prosecutor Marcia Clark said "has nothing to do with this case."

Shortcomings in the FBI lab's work were a contentious issue in

the Ruby Ridge controversy and part of the reason a federal judge in that case castigated the bureau for exhibiting "a callous disregard for the rights of the defendants and the interests of justice." The judge, Edward Lodge, made that finding after the acquittal of Weaver and his friend Kevin Harris on charges of murdering deputy U.S. marshal William F. Degan.

The Justice Department task force criticized the FBI lab for "lack of initiative" and responding too slowly to requests for various tests. At one point, the lab sent blood samples back to Idaho because no specific requests had been made as to what type of tests were to be conducted. The blood then spoiled because it was not refrigerated.

At another point, test firings from guns used at Ruby Ridge spilled out of their envelopes during shipment to Idaho, causing a trial delay. Other test requests were neglected for months. Last January, FBI Director Freeh reprimanded an FBI lab employee "for failing to accurately prepare a crime scene depiction" for the case.

The lab also failed to discover a bullet hole in Degan's backpack that was unnoticed until a defense lawyer spotted it near the end of the trial. The hole, the defense argued, could only have been made by a fellow marshal because he was the only one behind Degan during the 1992 gunfight.

Prosecutors in the Weaver case expressed disappointment in the FBI's lab work and eventually hired private experts in shooting reconstruction, wound ballistics and metal detection. The prosecutors told the Justice Department task force that the FBI lab was "unwilling or unable to provide assistance" in those areas of expertise. Yet the

by the independent examiners fell outside the FBI's expertise."

In reviewing the FBI lab's work in the Ruby Ridge case, the Justice Department task force said that if its performance was "typical of high profile homicide cases involving the death of a federal law enforcement officer and two citizens [Vicki and Sammy Weaver], we wonder about

the response to matters of less importance."

Stephen Kohn, Whitehurst's attorney, said he hoped "there is a thorough investigation into every case implicated in this matter. There is an urgent need for a thorough review. I am extremely concerned that Doctor Whitehurst does not have permission to discuss all the cases that he may have information on."

Kohn was referring to an April 1994 directive by Freeh that announced "zero tolerance" for agents who disclose information about criminal investigations to the news media or others.

Staff writers George Lardner Jr. in Washington and William Claiborne in Los Angeles contributed to this report.