

# Feds put FBI lab under microscope

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The Justice Department is reviewing federal prosecutions across the country involving the FBI crime lab because a supervisor there says agents rigged results, the Daily News has learned.

The massive, highly unusual inquiry was prompted by allegations made by whistleblower Frederic Whitehurst, an FBI lab supervisor, according to a Justice Department memo ordering the review.

The Jan. 4 memo from Acting Assistant Attorney General John Keeney was sent to all 93 U.S. attorney's offices around the country. A copy was obtained by The News from a federal law enforcement source. Sources acknowl-

edge that the inquiry could put some cases in jeopardy.

Justice Department spokesman Carl Stern said the review does not mean officials put credence in Whitehurst's allegations. But legal experts said that if the allegations are admitted as evidence at any trial, they could give defense lawyers ammunition to launch a withering attack on the legendary lab's credibility.

And if proven true, they could lead to closed cases being reopened.

"It's sufficiently serious that the government appears to be taking the only prudent course of action, which is to put everybody on notice that something might be wrong," said attorney Harry Schenk, a nationally recognized DNA expert who worked on O.J. Simpson's defense.

At the heart of the review is the government's disclosure obligations. Under federal law, prosecutors must turn over to defense lawyers any materials that may be favorable to the defense.

Allegations that FBI lab witnesses may have engaged in improprieties would fall under these rules.

The issues raised by the allegations affect "a substantial number of criminal cases in numerous districts throughout the country," according to the memo.

The memo says Whitehurst's charges center on 20 FBI officials, supervisors and agents it names from the lab and four lab units — explosives, chemistry and toxicology, documents, and materials analysis. It emphasizes that there is "no basis to conclude at this time that any ... acted inappropriately."

"Generally, Dr. Whitehurst contends that certain FBI examiners who testify in criminal cases are not qualified to perform the testing and analysis of the evidence involved in those cases," according to the memo.

Whitehurst, the lab's top chemist, also alleges that "certain examiners slant their scientific conclusions to favor the prosecution's case," according to the memo. He also contends the four lab units maintain insufficient scientific protocols for their work.

"Dr. Whitehurst contends that the explosives unit and the chemistry and toxicology unit inappropriately structure their conclusions to favor the prosecution," the memo said.

Justice Department officials said the review was an indication the system was working.

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