

BY DEBRA GERSH HERNANDEZ

Whistle-blower Alleges Retaliation

AN FBI SPECIAL agent alleges the Bureau is engaged in a campaign to destroy his career because he is a "whistle-blower," who is suspected of leaking information to the news media, among others.

Department of Justice spokesman Carl Stern called that charge "absolute, contrived nonsense," and Attorney General Janet Reno told reporters that, "Nothing is being done in retaliation."

Frederic Whitehurst, a supervisory special agent for the FBI, recently was questioned by a special independent counsel about leaks to the press.

Stern said the questioning was part of an overall investigation into the disclosure to *Playboy* magazine of memos written by Whitehurst about ongoing investigations, and which contained information protected by privacy law.

Stern said there also is a separate investigation into Whitehurst's earlier allegations involving the FBI crime lab.

"Since the memos were written by him, he obviously is one person who would be questioned," Stern said. "We have a responsibility to try to determine how that information was passed into the hands of *Playboy* magazine."

The DOJ first learned of the media leak when *Playboy* asked it to verify the authenticity of the documents. Stern said, emphasizing that the investigation is about the documents, not Whitehurst.

But Whitehurst's attorney, Stephen M. Kohn, called that "baloney," and charged that when information about Whitehurst, some of which he said was false, was leaked to *Newsweek* magazine, there was no investigation.

"In looking through that stuff [in the letter from *Playboy* to DOJ], there is nothing about confidential sources and methods. There's nothing in it that struck me as being classified," Kohn said.

"There is stuff in it that people would be talking about," he added, declining to specify, but calling it "sensational information" about problems with the FBI crime lab in more than one case, with the "meat" of the material dealing with bombing cases, which are Whitehurst's specialty.

Kohn added that he was "not trying to justify

whoever leaked this," and said that Whitehurst "played by the rules."

Stern said there is a "whole investigation in the Inspector General's office about the allegations he [Whitehurst] raised about the FBI crime lab. This new element has to do with an investigation of someone to find out how documents with raw information about Department of Justice employees were sent into *Playboy* magazine...."

"To distort and contort that into some inquisition of Frederic Whitehurst is tabloid rubbish. I wish you wouldn't print it," Stern said angrily.

Giving *Playboy* "full credit" for contacting Justice about the documents, Stern said, "Obviously, when we become aware they have documents that privacy laws and other statutes required be confidential, obviously we have a responsibility to investigate."

"To make this some grand inquisition is absolute tabloid nonsense," he continued. "Because it involves him, is he supposed to be immune when we inquire about information taken from our files?"

But Whitehurst's attorney said this is approximately the sixth time Whitehurst has been investigated since 1989, when he first disclosed information about "misconduct" in the FBI lab to attorneys for the defense in a case Kohn would not identify.

"On that occasion, it's beyond any doubt that he blew the whistle on serious scientific misconduct," Kohn said, explaining that Whitehurst "went to an

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In a 1994 photo, Frederic Whitehurst (center), supervisory special agent of the FBI, flanked by Mary Jo White, U.S. attorney for the Southern District of New York, and FBI director Louis Freeh, receives an award for his work on the World Trade Center bombing case. The photo was provided by the National Whistleblower Center.

Simpson lawyer to help FBI agent

O J. SIMPSON ATTORNEY John-nie L. Cochran Jr. has agreed to help defend FBI supervisory special agent Frederic Whitehurst if the agent is charged criminally for leaking information to the news media.

In a letter to Attorney General Janet Reno, Cochran called for the lifting of limits on Whitehurst's ability to communicate with counsel — discussing case details could be considered unauthorized disclosure, for the Justice Department to disqualify itself from further investigation of Whitehurst, and for the investigation

to be terminated altogether.

Although Whitehurst counsel Stephen M. Kohn said Cochran's "participation has nothing to do with O.J.," Whitehurst was ready to testify for Simpson's defense team about the poor quality and prosecutorial bias of the FBI crime lab, and one technician, in particular.

But Superior Court Judge Lance A. Ito barred Whitehurst from testifying near the trial's conclusion, ruling that such testimony would confuse the jury and waste the court's time.

— Debra Gersh Hernandez

expert for the defense and explained some of the problems that the person they were about to call to the stand had."

Whitehurst was suspended for a week and placed on six months' probation for that action, according to Kohn.

Kohn said Whitehurst also has been investigated for allegedly going to Congress, which he would neither confirm nor deny; for refusing to sign a Bureau-created list of his "concerns"; for fitness for duty; and for "blowing the whistle" on elements of the World Trade Center bombing investigation, leading certain lab tests to be scuttled.

According to Kohn, throughout these

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investigations, Whitehurst has received exemplary performance reviews from his fellow scientists, even though the Bureau has undertaken a "whisper" campaign that is used against him.

"The current use of the SIC [special investigative counsel] to re-create a plumber's unit in the Justice Department and 'stop the leaks' to the press is wrong," Kohn wrote in a letter to Attorney General Reno.

"There is no basis within the U.S. Constitution or our system of government to keep the allegations outlined in that let-

ter secret," Kohn wrote.

Kohn said Whitehurst plans to ask President Clinton to initiate proceedings, as outlined in an obscure statute.

SPJ assists JFK reporter

A NEW ORLEANS television reporter, who was found guilty of contempt of court for revealing the names of grand jury witnesses who testified more than 20 years ago during an investigation of President Kennedy's assassination, has been promised support from the Society of Professional Journalists.

Richard Angelico of WDSU-TV was fined \$100 and sentenced to a three-month suspended jail term for violating Louisiana's law protecting the secrecy of grand jury records. He plans to appeal.

Angelico received the documents from a former employee in the district attorney's office, who was ordered to destroy them in 1974 to create more office space. The DA office staffer, realizing the historical importance of the documents, took them home. He contacted Angelico after the DA told the federal Assassinations Records Review Board in June that the records had disappeared during a previous administration.

SPJ gave Angelico \$100 to cover the fine and plans to follow his appeal.

SPJ president G. Kelly Hawes of the *Muncie* (Ind.) *Star*, said that Angelico "acted as any responsible reporter should. He was given information concerning a deposition. He took that information and reported it to the public."

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