

Workers Portray FBI Crime Lab as a Shoddy Shop

■ **Probe:** Some current, former employees tell investigators of shortcomings, including possible contamination of tests by tour groups.

By RICHARD A. SERRANO
Times Staff Writer

WASHINGTON—As described by some government technical analysts, the FBI's world-renowned laboratory here sometimes was a chaotic scene.

Public tour groups filed through a hallway, kicking up dust, as delicate experiments were conducted nearby. Agents, fresh from the FBI's gun range or bomb unit, passed through—perhaps unwittingly spreading residue that could jeopardize tests. Lab technicians sometimes ignored or violated scientific protocols, some examiners were unqualified to issue test reports and, in one case, an analyst enhanced his scientific knowledge by "viewing videos."

Throughout the history of the FBI, the lab on the third floor of the J. Edgar Hoover Building here has enjoyed a reputation for precision and expertise. It not only was where federal agents sent their evidence but was also the place where law enforcement agencies from around the nation sought help in solving crimes.

The lab conducts more than 600,000 examinations a year for local, state and

federal law enforcement agencies.

But for more than a year now, the Justice Department's inspector general has been reviewing widespread allegations of abuse and shortcomings at the lab. Now, with a final report from the inspector general expected to be released as early as March, the FBI has already acknowledged problems, transferred some lab personnel and begun planning for a new facility at the FBI's training academy in Quantico, Va.

A draft copy of the inspector general's findings was given to the FBI on Jan. 17, and the bureau is to respond by Feb. 20. The inspector general's office then will issue a final report.

What that report will say is not clear. What is clear from government documents obtained by The Times is that many current and former employees of the lab have told investigators about numerous flaws that they saw in the way criminal evidence was handled.

Several lab employees described a physical facility and professional culture that they thought lent itself to problems. They said tourists were escorted through

a corridor of the trace-analysis section of the lab, a procedure that permitted outsiders to track in materials that could contaminate ongoing tests, they said.

Also using that carpeted walkway were bomb crews or agents who had just left the FBI's explosives unit or gun range. There were concerns that they too could leave contaminants behind.

Frederick Whitehurst, a lab chemist who has been suspended and now is expected to testify for the defense in the Oklahoma City bombing case, said bomb-residue contamination was found in the lab in the summer of 1995.

The discovery came after analysts began examining debris taken to the lab from the Oklahoma City bombing site. Whitehurst was asked whether that was the only contamination problem inside the crime lab. "I know it wasn't," he said.

However, government sources said Thursday that Whitehurst's claim is irrelevant because the Oklahoma City bombing debris had already been tested.

Whitehurst also told the inspector general that in-house "swabbings" were conducted earlier that year, before the bombing, and that glassware, benches, workstations and other areas in the lab were found to be contaminated.

Lab workers said they also worried about ventilation ducts and other air shafts that could cause cross-con-

tamination of some minute particles.

One analyst, Rick Hahn, told investigators that there were no rules for when protective clothing should be worn in the lab, and that he worried that cross-contamination of materials could occur. Often it was up to each examiner to decide what to do to prevent contamination.

Hahn also said that he learned more by teaching himself on the job than from hands-on training, and that he became proficient on a certain type of explosives examination by "viewing videos."

David Williams, a supervisory agent in the explosives unit, told the inspector general that he did not think there were enough books or other publications to keep analysts up to date on some sciences, such as how to detect damage from certain types of bombs. He indicated that he simply relied on his own general knowledge.

And Whitehurst suggested that when technical instruments produced conflicting results, lab guidelines at times were unclear on how to proceed.

Under FBI policy, he said, a system was created in the lab where expertise is often informally "passed down from teacher to student" and front-line examiners were discouraged from challenging official conclusions.

This week, senior FBI officials announced the suspensions of four lab

employees, including two supervisors. But Weldon Kennedy, FBI deputy director, cautioned that the job actions were "not done in retaliation for the actions of any employee."

"The actions were taken for good and valid reasons," he said, "based on the findings about some of their work by the inspector general and other information. These actions are fair and consistent with long-standing FBI policy and procedures."

Two of those removed were Whitehurst and Williams.

Kennedy also revealed that the bureau decided three years ago to improve the lab—before the inspector general's investigation began. Along with constructing a new facility, he said, the bureau also will seek outside accreditation, which for the first time would allow non-government experts to occasionally inspect the FBI's facility.

Kennedy also said the FBI "sharply disagrees" with critics who contend that some criminal prosecutions may have been compromised because of problems at the lab.

"The FBI's goal," he said, is "to maintain the laboratory on the cutting edge of law enforcement as a vital tool in efforts to protect the American people from crime."

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and some old cases could be reopened, they added.

"This is explosive," said Neal Sonnett, a Miami defense attorney and former federal prosecutor.

"They have had such a wonderful reputation but if that is called into question it could have a devastating effect in many cases."

"This is going to be a royal pain in the neck for judges and prosecutors," said Joseph DiStefano, a former U.S. attorney in the District of Columbia. He predicted that judges would grant many defense motions for additional data about FBI lab tests.

In a briefing for reporters, Gorelick acknowledged that "a serious set of problems" had been found during the inquiry but she insisted that efforts have been underway to correct them, partly with help from a panel of outside scientists.

Some details of the inspector

general's report emerged earlier this week when the FBI transferred three laboratory officials and suspended another for poor management.

Although first reports suggested that the lab was found to have used sloppy procedures in some cases, documents obtained by The Times said investigators also uncovered far more serious allegations that lab employees were pressured to alter the conclusions of their analyses of evidence and that supervisors sometimes changed the findings to support criminal prosecutions.

Gorelick declined comment when asked if the inspector general has concluded that those allegations, made by several lab workers, had been proved.

The FBI is still "the best law enforcement agency in the world," she said, even though flaws were documented "in a limited number of units" in the lab.

Other sources said that one of

these units deals with analysis of explosives, and that the Oklahoma City bombing prosecution and convictions in the World Trade Center bombing in New York could suffer if federal courts rule that important pieces of evidence have been tainted by poor lab work.

The FBI laboratory conducts more than 600,000 examinations a year for federal, state, local and international law enforcement agencies.

Asked if she could give assurances that no prosecutions were being compromised, Gorelick replied, "Until we have the final report and until the courts have a chance to examine each and every allegation as it applies to each and every case, we won't be able to make blanket statements."

She declined to identify any specific case where a potential problem exists.

Other legal sources stressed, however, that for any pending prosecution or past conviction to be

seriously affected, attorneys would have to demonstrate that FBI laboratory analysis played a critical role and that any flaws were substantial ones.

Nonetheless, the allegations have damaged the credibility of the lab and seem likely to hand defense attorneys fresh ammunition for cross-examination of FBI officials, legal experts said.

Throughout its nearly century-long history, the FBI crime lab has had a sterling reputation and its forensic reports usually have gone unchallenged. For that reason, allegations of sloppy work or evidence-tampering by lab workers have come as a shock to most trial lawyers and judges.

Sonnett cited two ways in which questions about the FBI lab could have faltered. First, defense attorneys are likely to move for new trials or hearings to attack evidence presented by prosecutors.

Second, jurors could come to doubt the reliability of evidence

presented by the government.

"Defense lawyers will have the ammunition to question the integrity of the scientific evidence and we have seen from the O.J. Simpson criminal trial how that can have an effect," he said.

Washington attorney E. Lawrence Barcella Jr. made the same point. "How a jury views a cross-examination of a laboratory guy is going to be far different from what it was a year or so ago," Barcella said.

Barcella, also a former federal prosecutor, added that many judges have had "almost an automatic acceptance of FBI lab results. Now you've completely reversed that."

Paul Rothstein, a Georgetown University law professor, noted that state prosecutions that relied on FBI lab testing could be affected as well as many federal cases.

Rothstein said that the Justice Department and FBI for acting

promptly to tell prosecutors and defense attorneys about potential problems. He pointed out that such notification would be required by federal law under a Supreme Court decision that imposes an obligation on the government to tell defense lawyers about anything the prosecution has discovered that could help clear a defendant.

A similar problem in West Virginia occurred four years ago when authorities discovered that Fred Zann, a state police scientist, had made up or manipulated evidence to help win convictions in at least 36 cases.

The state Supreme Court ultimately ruled that Zann had been responsible for "a long history of falsifying evidence in criminal prosecutions."

Many defendants convicted in murder and rape cases where blood evidence had been manipulated by Zann eventually were freed or were granted new trials.