

## THE NATION

# Lab is thrust under microscope

## Three cases characterize FBI problems

By Gary Fields  
USA TODAY

The Justice Department inspector general's report reveals a lab rife with shoddy work, lax procedures and questionable practices.

The report focuses on nine people who worked at the lab and singles out three for the most severe criticism, including Frederic Whitehurst, a former lab supervisor and whistle-blower who brought the case to public attention.

Three cases symbolize the lab's problems.

**United States vs. Painakis.**

Explosives lab examiner Terry Rudolph testified in this 1989 California case about his identification of the explosive residue PETN on evidence.

During an evidentiary hearing, Rudolph was asked by the judge in the case why tests he had conducted were not documented in his notes. His re-

### PRINCIPAL FINDINGS IN THE FBI LAB CASE

► "Scientifically flawed testimony" in four cases, including the bombing of the World Trade Center.

► "Inaccurate testimony" by laboratory examiners in the World Trade Center case, in a misconduct hearing involving Florida Judge Alcee Hastings, and in a Florida case in which George Trepal was convicted of murder by adding poison to bottled Coca-Cola.

► "Testimony beyond the examiner's expertise" in the World Trade Center and Hastings cases, and in the investigation of Avianca Airlines Flight 203, which exploded in 1989 and killed 107 people on board.

► "Improper preparation of laboratory reports" by three examiners in the explosives unit, who altered, omitted or improperly supplemented some of the internal reports by scientist-agent

Frederic Whitehurst, the chief whistle-blower.

► "Insufficient documentation of test results" by an examiner who worked on hundreds of cases, including the Unabomber investigation, and by the central toxicology unit chief.

► "Scientifically flawed reports" in the probes of the Oklahoma City bombing and the mall bomb killing of federal appellate Judge Robert Vance, "and in a few instances by an explosives unit examiner who altered Whitehurst's report."

► "Inadequate record management and retention system" by the lab.

► "Failures by management" to resolve allegations in a number of cases.

► "A flawed staffing structure of the explosives unit."

The Associated Press

sponse: "When I examine a case I put in my notes things that are important to me when I ... give testimony. I don't write my notes for the United States attorney. I don't write my notes for the defense. I write my notes for myself."

He went on to say he had done thousands of tests since 1982 and could not possibly remember them all. The judge asked, "Isn't that one of the reasons you keep notes?"

A defense explosives expert testified that the tests Rudolph

had conducted were not sufficient to determine that the residue was PETN. The defendant was acquitted.

The U.S. attorney prosecuting the case later wrote a four-page letter to the FBI lab director complaining that Rudolph's performance was deficient, that the judge had nearly excluded his testimony, and that the defense had impeached his scientific work and conclusions.

Rudolph is now retired. The report recommended that a notation be put in all his case files

about the investigation.

**World Trade Center and Oklahoma City bombings**

Lab examiner David Williams handled both cases.

In the World Trade Center trial, he testified that the defendants had the capacity to manufacture 1,200 pounds of the explosive urea nitrate. But the inspector general found that his testimony "was based on improper non-scientific grounds and appeared to be tailored to correspond with his estimate of the amount of ex-

plosive used in the bombing."

Under questioning by the inspector general, Williams admitted he had no basis from the crime scene for determining the type of explosive. He acknowledged that based on the crime scene, the main charge "could have been anything."

The report finds that many of the same errors were committed again when Williams gave his report in the Oklahoma City bombing.

Williams' identification of the device used in the blast as an ammonium nitrate fuel oil bomb was based on the fact that one of the defendants had bought ammonium nitrate fuel components, the report said.

The inspector general recommended that Williams be reassigned outside the lab.

The report also includes harsh criticism of Whitehurst, who is described as "an experienced scientist who identified significant problems in certain cases" but whose allegations of perjury and fabrication of evidence by colleagues "were not supported by the facts uncovered in the investigation."

► Crime lab report, 1A

"USA TODAY hopes to serve as a forum for better understanding and unity to help make the USA truly one nation."

—Allen H. Neuharth  
Founder, Sept. 15, 1982



David Mazzarella  
Editor  
Karen Jurgensen  
Editor of the  
Editorial Page  
Thomas Curley  
President and Publisher

### Today's debate: FBI CRIME LAB

# Poor lab work gives both FBI, justice a black eye

**OUR VIEW** The lab's bias toward the prosecution is outrageous. The FBI needs to clean house.

Amazing.

The nation's crown jewel among crime labs — the FBI laboratory — turns out to be infested with agents more interested in helping prosecutors win convictions than serving the cause of justice.

A long-awaited Justice Department inspector general's report Tuesday said:

► Supervisors improperly altered or omitted examiners' reports, at times shading them to favor prosecutors' cases.

► Examiners went beyond their expertise, presenting scientifically flawed and inaccurate testimony in high-profile cases such as the World Trade Center bombing.

► Investigators gave unjustified speculation on the Oklahoma City bombing "tilted to incriminate defendants."

Justice Department officials are quick to say such sloppiness and bias don't appear to have put innocent people in jail. But the fact is they don't know if that's true.

The lab is depended upon by prosecutors and defendants for impartiality and forensic expertise in 600,000 cases annually.

A task force is just now reviewing hundreds of cases in which potentially exculpatory evidence may have been denied defendants. And defense attorneys are readying suits demanding still more information.

Why this turmoil? Arrogance. The FBI refused to take the warnings of one of its examiners seriously when he first complained about lab sloppiness and bias.

Senior examiner Frederic Whitehurst first told superiors about problems in the late 1980s. But it wasn't until November 1995 that the inspector general formed a task force with outside experts to investigate them. And then only after White-

## Upgrading facilities

In a special report in August 1996, USA TODAY documented how insufficient equipment, staff and training are overwhelming the nation's crime labs. Much state and local lab work has to be done by the FBI. To help cope with the heavy workload, the FBI is:

- Building \$150 million, 500,000-square-foot lab in Quantico, Va.
- Increasing lab staffing, including 88 new scientists and 75 technicians.
- Modernizing equipment through a 10% hike in its \$90 million annual budget.
- Giving more than \$13 million in grants to state and local labs.

hurst's allegations became public.

Until then, investigations were limited and punishments were token, except for Whitehurst. The FBI suspended him for giving a defense expert evidence of another examiner's sloppy errors without first notifying prosecutors. The other examiner, after a later review found Whitehurst was right, got off with a verbal reprimand and \$500 for improving his work.

Tuesday's report does more of the same. It recommends censure, reassignment and demotion for a few agents but saves most of its venom for Whitehurst, saying he overstated charges and lacked judgment.

Meanwhile, it lauds the agency for efforts to upgrade facilities, pursue outside accreditation, seek a respected scientist to head the lab, require that examiners testify "accurately and completely" and reports be reviewed "to confirm conclusions are reasonable and scientifically based."

That's like praising the Good Humor man for selling ice cream. Its reaction to Whitehurst's warnings says the FBI is too ready to side with cops and prosecutors instead of assuring the lab is free of bias and independent of police functions.

The job of the lab isn't to pursue convictions but to find the truth. And it fell down on that job.