

Lab Procedures Criticized in McVeigh Trial

FBI Scientist Suggests Possibility of Contaminated Bombing Evidence

By Tom Kenworthy
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DENVER, May 27—An FBI scientist whose internal criticisms led to a scathing official indictment of the agency's crime laboratory suggested today that key pieces of evidence in the government's case against Oklahoma City bombing defendant Timothy J. McVeigh may have been compromised by sloppy procedures at the lab.

But Frederic Whitehurst, who formerly served as the supervisory special agent in the explosive materials section of the FBI lab, conceded during a tenacious cross-examination by federal prosecutors that he had no direct knowledge that evidence contamination occurred in the case. "I have no knowledge of any actual contamination of any evidence in this case," Whitehurst told the seven-man, five-woman jury.

Whitehurst, whose criticisms of the lab were partially vindicated by the findings of a Justice Department inspector general's investigation last month, said he was extremely skeptical that ammonium nitrate fertilizer crystals allegedly discovered embedded in a small piece of the Ryder bomb truck could have survived a heavy rainstorm that soaked the crime scene on the day of the explosion.

That piece of evidence, known as Q-507, is critical to the government's contention that a 4,000-pound bomb, made of ammonium nitrate fertilizer and fuel oil, was packed in the Ryder truck by McVeigh and then used to blow up the Alfred P. Murrah Federal Building on April 19, 1995, killing 168 people and injuring hundreds more. McVeigh, who has pleaded not guilty, faces the death penalty if convicted of the crime.

"There's some data missing that I find an enigma," Whitehurst said. "I just don't know how ammonium nitrate crystals could survive that rainstorm."

Whitehurst also testified that a fellow lab worker told him the crucial piece of the Ryder truck had been turned in to the agency by someone not connected to any law enforcement agency. "I raised an issue with identifying that piece as actually being from the Ryder truck," said Whitehurst, but he was told by fellow crime lab worker Dave Williams "it was a moot point because a civilian brought it in and we would have a problem with the chain of custody, so we were not going to use that." Williams told the jury this morning he did not recall such a conversa-

whistleblower also said that he conducted a contamination study at the lab in May 1995 and found four or five places contaminated with "organic explosives." There were numerous ways in which the lab could become contaminated, Whitehurst said, including by personnel returning to the lab from the FBI bombing range without undergoing decontamination procedures, by outsiders trooping through the lab on special tours and from a carpet in the lab that was never, to his knowledge, cleaned.

The integrity of the FBI lab is an important issue in the case because the crime lab found the crystals on the Ryder truck panel as well as traces of PETN, a compound used in detonator cord, on jeans and two shirts worn by McVeigh when he was arrested about 80 minutes after the explosion.

An 18-month investigation of the FBI lab by the Justice Department inspector general's office released last month concluded that an FBI special agent who worked on the bombing case report "repeatedly reached conclusions that incriminated the defendants without a scientific basis." But the probe also harshly criticized Whitehurst, accused him of making "overstated and incendiary" allegations about the crime lab's integrity and recommended he be transferred. Whitehurst has been on administrative leave with pay while the FBI decides what further action to take.

Whitehurst's testimony today represented the most powerful blow struck against the government's case by McVeigh's lawyers since they began their defense in federal court here last week. But prosecutors, on cross-examination, launched a furious attack on Whitehurst's testimony and what they portrayed as inconsistencies with previous statements.

Prosecutor Beth Wilkinson got

Whitehurst to acknowledge that he had changed his opinion of the abilities of the FBI employee who received the bombing case evidence; that he once described the work of FBI chemist Steven Burmeister—who discovered the fertilizer crystals in the Ryder truck piece—as "brilliant"; that he had not questioned the survival of the crystals at the time; and that he had not found any contamination in the later investigation on the work benches used by either Burmeister or Ron Kelly, the FBI employee who received the evidence when it arrived at the lab.

But Whitehurst stuck to his conclusion that at the time the lab was processing evidence from the Oklahoma City bombing scene it was inappropriately casual about guarding against contamination.

"I've had a concern about the chain of custody ever since I got in the lab," he testified. "If we're processing evidence and we're contaminated ourselves, then we don't know whether our finding of explosives residue on material is the result of our contaminating the material ourselves or of explosive residue being on the material before it got to us."

Also today, U.S. District Judge Richard P. Matsch refused to allow the testimony of a Tulsa woman who was a paid informer for the federal Bureau of Alcohol, Tobacco and Firearms. She reportedly said after the bombing that she knew in advance other people were planning to bomb federal buildings in Oklahoma. That decision effectively bars McVeigh's attorneys from presenting unproven conspiracy theories to the jury.

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