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National

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Ex-FBI scientist starts anew

■ **Lab:** Expert uses settlement to recheck evidence in hopes of freeing innocent people.

BY CAROL D. LEONNIG
Mercury News Washington Bureau

WASHINGTON -- In the cluttered basement of a Georgetown law office, Frederic Whitehurst runs a tiny crime lab with an evangelist's heart and a scientist's mind.

The mission: Free innocent people.

The expelled FBI scientist is searching for justice in box loads of case files, two decades of paper trails that show how the bureau tagged people for crimes. As he leafs through reports on gun residue, blood and chemical explosives, Whitehurst hunts for clues that the FBI may have used bad science to get those convictions.

Whitehurst, who has a Ph.D. in chemistry from Duke University, was forced out of his supervisor's job at the bureau's crime lab last year after he repeatedly complained that lab managers were doctoring reports to steer the prosecution toward conviction.

Department of Justice officials portrayed him as a mentally off-balance perfectionist, but an inspector general's audit confirmed dozens of his complaints. The audit also forced the FBI to begin reforming its lab operation.

Department of Justice attorneys, while agreeing to settle the case, still say that Whitehurst overstated the prosecutorial zeal of the lab.

As part of the recent \$1.46 million settlement with the government, Whitehurst, 50, has agreed not to go back to his old job. Instead, he is launching something called the Forensic Justice Project.

Whitehurst and a tiny staff will take on two mammoth tasks, financed with his settlement money.

First, they will review two decades of FBI cases -- roughly 185,000 pages of documents Whitehurst receives weekly as part of the settlement. The documents involve the work of a half-dozen bureau lab employees whom Whitehurst believes tailored reports to help government prosecutors make their case.

One case on Whitehurst's mind: a man convicted of murder with the help of FBI testimony that he had poison in his possession. Whitehurst says he actually had a harmless children's medicine.

Second, Whitehurst and a newly formed board of forensic experts will help review cases -- federal, state or local -- whenever people call the Forensic Justice Project with complaints that their convictions hinged on bad science.

"I'd like to open the forensic science of all these cases to the light of day," Whitehurst said. "Science should stand up to review."

Whitehurst launched the non-profit Forensic Justice Project with a low-key reception last week. Already he's getting calls and checking out leads.

Federal authorities are rechecking some of the cases Whitehurst reviewed during his lawsuit, said Stephen Kohn, one of Whitehurst's attorneys and chairman of the National Whistleblower Center.

A death row murder convict in Florida won an indefinite stay of his execution, said Kohn, after a check by Whitehurst revealed problems in the FBI crime lab's testimony about toxins in his case.

"That's an example of what we're all about," Kohn said. "You should not rely upon bad forensics to put someone in jail and execute them."

Whitehurst and the project are still considering whether and how they would charge fees for defendants who want their cases reviewed. For example, the center might charge indigent clients if

they are eligible to receive federal funds for crime consulting.

Kate Hill-Germond sees Whitehurst's project as a lifeline for victims of overeager prosecution. She works as an investigator for Centurion Ministries, a Princeton, N.J.-based advocacy group that represents people they believe were imprisoned unfairly.

"Frequently our cases involve bad science or no science," she said. "If we need to know about sniffing dogs or gun residue, we can just call him and tap that expertise."

Kohn said Whitehurst will present a report to federal authorities about his review of the FBI cases, probably in September.

Whitehurst's life has improved since he gave up his FBI badge in February. He no longer wakes at 4 a.m. to commute from his southern Maryland rambler to the Justice building in downtown Washington. Instead, he plays Mr. Mom to his 6-year-old daughter, Jharna, in the morning and early evening.

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