

New York Times

April 19, 1997

The F.B.I.'s Limited Cleanup

By punishing the whistle-blower who finally forced the Federal Bureau of Investigation to begin to address the lack of professionalism and honesty in its legendary crime lab, Director Louis Freeh has sent a chilling message sure to deter future critics from coming forward. This makes one wonder how genuine the bureau's commitment is to cleaning up its lab. The whistle-blower, Frederic Whitehurst, has been put on indefinite paid administrative leave and barred from the lab.

Mr. Whitehurst says he plans to devote himself to re-examining suspect evidence and testimony to undo the harm done to individuals and the integrity of the criminal justice system. What is known so far leaves no doubt he has his work cut out for him.

As several newspapers, including The Times, have reported, sloppiness and dishonesty by lab officials may jeopardize major prosecutions of national interest like the Oklahoma City bombing case. Meanwhile, an expose this week in The Wall Street Journal suggests that the F.B.I.'s bad habit of cooking evidence to help convict people with fraudulent scientific testimony may be even more extensive than acknowledged in this week's report by the Justice Department's inspector general, Michael Bromwich.

The Journal story examines the record of one of the lab's hair and fiber experts, Michael Malone. Hair evidence is less reliable than fingerprints, and seldom definitive. But in instance after instance over a two-decade career, Mr. Malone authoritatively overstated the evidence to help prosecutors win convictions. His distortions perverted justice and earned him notoriety among forensic scientists.

In a 1991 murder trial in Pennsylvania, for example, the victim was allegedly murdered on a blanket in the back of a van. Mr. Malone offered strong testimony that a hair found on the blanket belonged to the victim. But it turned out that the blanket the prosecution had sent to Mr. Malone for testing had nothing to do with the crime.

Some appellate courts have caught on, reversing convictions based on Mr. Malone's pseudo-scientific analysis of hair and fiber samples, most recently in March. Yet none of this prevented the F.B.I. from continuing to deploy him in sensitive cases. The narrowly focused new report by the F.B.I. inspector general criticizes Mr. Malone for distorting the truth in just a single case, failing to mention other big blots on his record.

The fact that Mr. Malone's game was allowed to continue for so long, and that he has been permitted to remain at the bureau, working outside the lab, leaves Mr. Freeh

and Attorney General Janet Reno with a lot to answer for. It also underscores the Justice Department's duty to establish an effective mechanism for policing and punishing dishonest science -- a mechanism that could encourage legitimate complaints from the public and internal whistle-blowers like Mr. Whitehurst.