

FBI embroiled in crime lab scandal

by Leo F. Scanlon

An eight-year campaign by Dr. Frederick Whitehurst, a top-ranked FBI explosives expert, has finally prompted the Department of Justice (DOJ) to investigate allegations of improper and biased work by the FBI crime laboratory. Whitehurst's charges hit the front pages when the defense attempted to call him in the O.J. Simpson murder trial, but he had already been a witness for the defense in the World Trade Center bombing case. His accusations cast doubt on key evidence in a string of high-profile explosives investigations and prosecutions which turned on evidence developed in the FBI crime lab.

According to internal memos made available to news media, Whitehurst charged that there were ongoing problems in the laboratory procedures, including "fabrication of evidence, perjury, and misconduct" in the 1991 trial of Walter Leroy Moody, convicted of the bombing murder of U.S. Judge Robert Vance in Atlanta. That case was prosecuted by current FBI Director Louis J. Freeh.

Whitehurst is being given unusual treatment by the DOJ, which has allowed him to meet with defense attorneys and testify in cases which the government is currently prosecuting. The FBI bureaucracy is less happy with him, however. In the wake of his January 1994, DOJ-approved interview with defense attorneys in the World Trade Center bombing case, Whitehurst was transferred to a position of "trainee" in the paint analysis section of the lab. Whitehurst, a 13-year veteran of the agency, holds a doctorate from Duke University and was the FBI's top explosives residue expert for years.

Since 1989, Whitehurst has been complaining to his superiors in the FBI, and to the DOJ Inspector General, that the procedures for adjudicating disputes among scientists at the lab were flawed, and that test results have been systematically skewed to produce evidence favorable to prosecutors. According to a DOJ spokesman, Whitehurst points out that in many cases, the interpretation of the results of a lab test is based on the best estimate of the scientist doing the analysis, or on a statistical probability factor which is applied to the test results. When scientists disagree as to the significance of a particular finding, a procedure is invoked to adjudicate the disagreement, and (theoretically) come to an unbiased consensus.

A systemic problem

In practice, according to Whitehurst, this procedure is skewed to suppress analyses which would lead to conclusions unfavorable to the prosecution. The implications are that this problem taints all sensitive analytical work done by the laboratory, not merely a few high-profile cases, and it is also implied that this reflects a systemic problem in the upper levels of the federal prosecutorial apparatus.

A routine audit conducted last year discovered instances of discrepancies in tracking cases and handling evidence in the lab. The audit found that the FBI could "strengthen accountability of requests and specimens, enhance quality assurance practices, and provide safer conditions for its employees," recommendations which hint at the deeper problems highlighted by Whitehurst. An FBI internal review of Whitehurst's charges found—no surprise—his claims to be groundless. Whitehurst points out that this was inevitable, because the internal review process is precisely what has become politicized and biased. The controversy was brought to the attention of the DOJ in July, and a DOJ Inspector General investigation was begun in August. Apparently, the DOJ had concluded that the FBI was not capable of cleaning up its own house. The DOJ decision to allow Whitehurst to meet with defense attorneys in the World Trade Center case in 1994, indicates that his charges are taken seriously.

Whitehurst's charges are widely acknowledged to have merit by law enforcement specialists, and strike at a key element of the "rush to judgment" railroad run by the "old boys" network within the DOJ criminal division and the FBI. Despite press attempts to portray the scandal as a threat to FBI Director Freeh, an honest review would further Freeh's efforts to clean up the federal law enforcement apparatus.

An illustration of this point came from Christophir Kerr, a 23-year FBI veteran and executive board member of the FBI Agents Association, who excoriated the FBI "old-boy" network in an op-ed in the Sept. 5 *Washington Times*. Writing about the scandal surrounding the FBI internal investigation of the Ruby Ridge, Idaho disaster, Kerr said that "few in the ranks were surprised to learn that the recent Ruby Ridge inquiry was 'fixed.' It has been an open secret for years that [the FBI's] internal investigations are generally run backwards. The facts are often 'developed' to support a predetermined outcome. In the perhaps apocryphal exhortation attributed to J. Edgar Hoover, 'Fire that man! No, get the facts. Then fire him!'"

Kerr attributes this attitude to "a relatively insular, 'close-knit' group" of bureaucrats who are in the "career path," i.e., fundamentally committed to "career advancement" as a profession. This phenomenon is the breeding ground for the corruption which is now shown to be widespread in the upper level of the federal law enforcement bureaucracy. As an independent tribunal reported (see *EIR*, Sept. 15, p. 54), politically motivated prosecutions are the stock-in-trade of too many DOJ officials.