

In the Face²⁻¹⁵⁻⁹⁷ of the Evidence

Some Say the FBI Whistle-Blower Is a Crusader. Some Say He's Crazy.



Frederic Whitehurst, suspended from the FBI and at home in La Plata, says of his allegations: "How do you turn your back on this stuff? I can't."

BY JAMES M. THRESHER—THE WASHINGTON POST

By Pierre Thomas
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At 4:15 p.m. on Jan. 24, FBI forensic scientist Frederic Whitehurst was tapping away at a computer terminal in the library of the bureau's sprawling laboratory when he was summoned to a hurry-up meeting.

Striding down a long corridor in the bowels of the J. Edgar Hoover Building, Whitehurst wondered: "What's this going to be about? Is this the dismissal?"

Minutes later, he was handed a letter and instructed to read it in front of his superiors. "... You are hereby placed on administrative leave (with pay)," Whitehurst read. "... You are precluded from entering any FBI building or facility."

The letter never said why he was asked to leave. But less than an hour later, Whitehurst was escorted to an exit, stripped of his gold-plated badge, No. 5150, and his Smith and Wesson handgun.

For nearly eight years, Fred Whitehurst had told the truth as he had seen it. He had questioned the methodology, the science and even the truthfulness of the FBI's storied forensic work in such critical areas as explosives and chemical analysis.

Now it was consequence time—but not just for Whitehurst.

While he remains suspended with pay, at home in Charles County, Md., a penetrating Justice Department investigation of the FBI laboratory appears to have verified some of Whitehurst's complaints. This week, Deputy Attorney General Jamie S. Gorelick announced that Jus-

tice Department lawyers have flagged potential forensics-related problems in at least 50 cases. State and federal prosecutors have been asked to determine whether the findings are significant enough to be made available to defense attorneys.

Vindication it may be, but it has not been sweet. Today the decorated Vietnam veteran who volunteered for three combat tours finds himself scorned by many in the FBI. Some call Whitehurst, with his close-cropped hair, carefully barbered mustache and military bearing, a know-it-all, others a rogue. A few say he's mentally unstable.

"He is the kind of person who had his own standards, [and they] are typically above and beyond industry standards," says a senior law enforcement official, who is prohibited from dis-

See WHITEHURST, C5, Col. 1

Voice of Reason?

WHITEHURST, From C1

cussing the Whitehurst case in detail because of privacy regulations and a pending disciplinary action. "If your standards are not his standards, then you have compromised a case."

Whitehurst, 49, isn't shy about painting himself as a crusader. He says he simply wants to ensure that FBI lab procedures guarantee that justice is handed down fairly, based on fact—not pressure to win convictions in court.

"The issue is not about Fred Whitehurst," he says. "Let's talk about the science. They don't want to talk about the science. As of today, no one has ever talked to me about the science. . . . How do you turn your back on this stuff? I can't. I don't know how."

Whitehurst says he is being persecuted because he has done something FBI brass consider unspeakable—disclosing embarrassing details of laboratory foul-ups. What the FBI is concerned about "first and foremost," Whitehurst says, "is image."

The different images of Whitehurst are jarring.

He possesses doctoral degrees in chemistry from Duke and law from Georgetown. From the FBI, he has a received a fistful of "exceptional" evaluations.

But this is the same man who once burned himself with a Bic lighter to better describe evidence to a jury—an act critics emphasize to suggest Whitehurst may be suffering from post-traumatic stress syndrome from his service in Vietnam.

"I'm not a nut case," Whitehurst says during a lengthy interview at his attorney's Georgetown office. "Such allegations are vulgar. Why haven't they been raised before?"

In fact, Whitehurst's complaints have made him the focus of the FBI.

Science Class

Not long after he first began working in the FBI lab, in 1986, Whitehurst was confronted with what he described as a big problem. Another forensic scientist in the lab had acquired a reputation for sloppiness and lax control of evidence. Whitehurst says the man's

supervisors had done little or nothing to correct the problem; he reported it to higher-ups.

"Management ignored the complaints of me and others," Whitehurst says. The problems with the forensic official's work "were blatant. And people's lives were being affected."

John Hicks, who headed the FBI's laboratory from 1989 to 1994, disagrees. Whitehurst, Hicks says, "never once came into my office to say that something was not right. He didn't use in-house mechanisms to resolve issues of professional disagreement."

Whitehurst's problems with the other forensic scientist only grew worse. In 1989, FBI supervisors asked Whitehurst to perform a battery of tests to serve as a backup to those done by the scientist. He did so, and as he flew to San Francisco to testify as a prosecution witness, Whitehurst grew increasingly uneasy. He had performed his own tests on the scientist's work, but the possibility that the evidence was contaminated was so high, he felt, that his analysis was probably meaningless.

As it turned out, Whitehurst was not called to testify. But he worried that the defendant in the case might be convicted on the basis of contaminated evidence and flawed science. Frustrated, Whitehurst left the courthouse for a stroll. The walk stretched into nearly 12 hours.

Whitehurst says he remembered what his mother, a teacher, and his fa-

ther, a former Navy man, taught him: "Just because everyone else is doing it doesn't mean that it is right. You walk the right path, not necessarily the easiest path." He thought, too, of the motto of one his teachers at the FBI academy: "Don't just stand there. Do something!"

By the time he finally returned to the courthouse, Whitehurst had made a decision. He found an expert witness for the defense and told him of his concerns about the government's forensic evidence. This was a definite breach of FBI protocol. "I knew the consequences," Whitehurst says, noting that he immediately informed his superiors.

His actions prompted an internal FBI review, after which Whitehurst was suspended without pay for five days. A letter of censure was placed in his personnel file.

His supervisors in the Hoover Building might have been frosted at Whitehurst, but the prosecutor in San Francisco found merit in Whitehurst's position. At least partially as a result of the FBI lab analysis, Assistant U.S. Attorney Charles B. Burch concluded, the

jury voted to acquit the defendant. "Part of the reason," Burch stated in a letter to Hicks, the FBI laboratory director, "... stemmed from some serious questions that arose concerning the handling of exhibits involving trace or residue amounts of explosives and the analysis of these exhibits."

In the letter, dated July 8, 1989, Burch praised Whitehurst. "He seemed to me to be a person who sincerely was concerned about the integrity of the judicial process," Burch wrote, "and the FBI's role in the process."

Whitehurst's superiors didn't see it quite that way.

Jumping In

When he was 17, Fred Whitehurst dove into a icy lake to try to rescue the passengers of a car that skidded into the frigid waters. The date was Jan. 17, 1965. Newspaper reports document how Whitehurst and another man saved one passenger but failed to reach a second, who drowned.

Today, Whitehurst still recalls the incident vividly—especially the passersby who watched from the banks of lake and made no effort to help.

Whitehurst compares the bystanders to FBI brass.

Some FBI supervisors, he says, "stand on the bank of the lake and watch me drown. They are afraid of the cold. . . . Here is an agency drowning in its own fear."

Wherever he has gone, it seems, Whitehurst has had little patience for imperfection. In the chaos of Vietnam, for instance, he was a stickler for order. Wilfred A. Armstrong worked with Whitehurst in the military intelligence unit of the Americal Division. "Everybody in the unit knew you didn't screw around with Fred," Armstrong recalls. "He just didn't allow slipshod in his life."

Dan Hays, 68, of Chico, Calif., was Whitehurst's neighbor for about three

years. "I would say if he had an obsession," Hays says, "it was being precise."

Pat Grant, deputy director of the Forensic Science Center at the Livermore National Laboratory in California, worked with Whitehurst on a number of counter-terrorism projects. "My read on Fred," Grant says, "is that he is driven by a personal dedication to the truth. I can't say whether he is right or wrong [about the FBI lab]. But if you really have a question about whether the forensic science is being done correctly, you should raise the issue. . . . People's lives and futures are at stake."

That's precisely what has animated

his crusade, Whitehurst says.

He worried that some supervisors of the FBI lab had little or no expertise in science or in technical matters on which they were asked to make findings. He believed some lab personnel put a premium on finding the results prosecutors wanted, and he was convinced that reports were sometimes altered without the knowledge of the scientists who did the research. The Justice Department inquiry and FBI sources confirmed last week that some of these allegations were true. Other officials, however, say some of Whitehurst's claims were overblown—especially the charge that laboratory personnel knowingly obstructed justice by making false statements.

Alan Robillard, who served as assistant section chief for the scientific analysis division in the lab before retiring recently, says that, to his knowledge, no lab personnel ever manipulated evidence. Rather, Robillard says, FBI forensic experts routinely provided testimony that helped clear defendants and were scrupulous about trying to avoid contamination of forensic evidence. "This is horrible," he says of the current controversy. "The entire FBI lab is being trashed."

Whitehurst responds that he documented complaints about the actions of some of his colleagues—even if it required unconventional action on his part. He testified in one trial, for instance, that several FBI investigators in the World Trade Center bombing inquiry concluded that the explosive device was urea nitrate-based, even though the assertion was impossible to prove because the substance is so common. To prove his point, Whitehurst testified, he took a urine sample, marked it as evidence and submitted it to an FBI lab examiner. The urine sample was identified by the FBI forensic expert as urea nitrate, Whitehurst says.

Whitehurst's complaints against the FBI have cost him. Despite his advanced degrees and years of experience in the lab, FBI supervisors have reassigned him as a paint analysis "trainee." Whitehurst retained the same pay grade, and the FBI maintains that the reassignment and disciplinary actions had nothing to do with his criticisms of the lab. Still, supervisors have requested that Whitehurst submit to psychiatric evaluations, an action that his attorney, Stephen Kohn, says suggests his client is unfit for duty or



Frederic Whitehurst and his wife, Cheryl, who also works for the FBI, make their case at their home in La Plata.

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criticisms of the FBI. Edwin N. Carter, a clinical psychologist in Springfield, examined Whitehurst at length and wrote a report for the FBI scientist. It says, in part: "It is important to note that Mr. Whitehurst's primary allegiance is to the truth and, as such, he may not always appear to be working in an agreeable fashion with prosecutors and his colleagues. This, of course, does not make him oppositional. Rather it simply means he is doing his job."

The questions FBI supervisors have raised about his mental stability amount to character assassination, Whitehurst charges.

"Have you ever seen yourself slandered in the national news?" Whitehurst asks. "The stress on my family is phenomenal."

Badges of Honor

On a recent Thursday night, Whitehurst's wife, Cheryl, who also works at the FBI lab, is sitting beside her husband in the living room of their home in La Plata. On one wall hangs a portrait of the couple and their 5-year-old daughter, Jharna. It is surrounded by other photographs of the child.

"I'm angry about it [the FBI's treatment of her husband]," Cheryl says, as

Jharna thumbs through Disney's version of "The Hunchback of Notre Dame." "He's being made to look like the bad guy."

Not long ago, Fred Whitehurst says, he called his wife from his car phone as he was driving home. "I called Cheryl and said, 'Let's pack it up,'" Whitehurst recalls. "She said, 'Well, then, you'll be going by yourself. They are not going to walk on me.'"

"I look forward to leaving the area one day. But not now," she explains. "We will know when [the fight] is done."

In the Whitehurst family room are the FBI veteran's walls of honor, hung with trophies, the memorabilia of conflict. Beside the four Bronze Stars for meritorious service, the Army Commendation Medal and the Vietnam Campaign Medal with oak leaf clusters hang Whitehurst's badges of honor from his battles with the FBI. They are the letters of reprimand he has received over the years from FBI brass. He has framed and mounted every one.

FOR MORE INFORMATION

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somehow dangerous. Whitehurst has filed suit against the FBI to prevent the agency from taking any further action against him.

And Whitehurst, on his own, has undergone independent psychological analysis—he says the results support his