

Justice Dept. Cites Failures Of FBI Lab

Evidence Was Flawed In Several/Big Cases

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The FBI crime laboratory produced scientifically flawed reports and inaccurate testimony in several major cases, including the World Trade Center and Oklahoma City bombings, according to a Justice Department report that recommends a thorough overhaul of the nation's leading forensic facility.

Despite its harsh criticism of some FBI personnel and demands for institutional change, the 500-page report by the Justice Department's inspector general cleared laboratory examiners of allegations that they committed perjury and fabricated evidence—the most serious charges to surface during the 18-month inquiry.

In releasing the report yesterday, Justice Department officials predicted that defense attorneys in an enormous number of past, present and future criminal cases will challenge evidence presented by the lab. In a few cases still under review, the officials conceded, the conduct of laboratory employees might hurt prosecutions.

FBI Deputy Director William J. Esposito said at a news conference that although "very serious" problems had been uncovered in the forensic laboratory, the FBI could remedy them by implementing all of the inspector general's recommendations, including measures that would submit the FBI to an unprecedented degree of outside scrutiny.

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"The FBI has taken every action to ensure [that] all serious concerns raised about the FBI laboratory are being addressed," Esposito said.

By the end of next year, Esposito added, the lab will be fully accredited, a step that will require documentation and review of lab procedures. In addition, an outside scientist will be brought in to run the lab, and a team of FBI agents, as well as outside specialists and prosecutors, will monitor implementation of the inspector general's recommendations, Esposito said.

While promising to restore public confidence in the laboratory, Esposito acknowledged that the inspector general's report—and its suggestion that FBI lapses could damage criminal prosecutions—will further harm the image of the nation's premier law enforcement agency, which has been dogged by a series of controversies ranging from the improper questioning of a suspect in the Olympic bombing to the misuse of sensitive investigative files by White house security aides.

"I guess a good day," Esposito said yesterday, "is when we're not in the paper."

According to federal officials and law enforcement experts, the exposure of long-standing, systemic problems at the crime laboratory may do much more damage to the FBI than either the White House files imbroglio or the Olympic bombing inquiry. Since its founding in 1932, the laboratory has bolstered the bureau's reputation for professionalism and helped establish the bureau's role as the chief repository of information on criminal cases and on new investigative techniques.

"Its reputation and the quality of its work have an enormous impact on the operations of law enforcement and the criminal justice system more generally, said Justice Department Inspector General Michael R. Bromwich. The laboratory conducts more than 600,000 examinations a year for federal, state and local agencies.

"This is horrendous, both to pros-

ecutors and defense attorneys," said Reid Weingarten, a noted defense attorney and former federal prosecutor. "The one thing we always counted on was the expertise and impartiality of the FBI lab. Of all the problems with the FBI, this I think is the most significant, primarily because of its lingering effect. No longer will courts and lawyers automatically trust the FBI results."

Putting forensic evidence from the FBI lab in question can weaken an entire case, legal experts said.

"You can bet there will be litigation because of this," said Albert Alschuler, law professor at the University of Chicago and a specialist in criminal procedure. "It sounds like the Justice Department is trying to say that the lab work was negligent, but not reckless. But that's a very thin line in practice. The central issue is that there were circumstances known to some people in the FBI that evidence they presented in court was less than reliable. That impeachment evidence was not disclosed to defense attorneys."

The inspector general's report makes a total of 40 separate recommendations that include seemingly elementary matters such as establishing written guidelines requiring laboratory examiners to testify "accurately and completely" and developing a storage system "that assures case files are complete and readily retrievable."

More fundamental change would result from recommendations that the laboratory's entire Explosives Unit should be restructured and restaffed with "qualified scientists" and

that all examiners' reports "should be substantively reviewed to confirm that [their] conclusions are reasonable and scientifically based."

The Justice Department inquiry came in response to allegations brought by Frederic Whitehurst, a veteran FBI agent and chemist who served as a supervisor in the FBI lab.

"Although Whitehurst raised some valid concerns," Bromwich said, "we did not substantiate the majority of his allegations, including his most inflammatory charges of perjury and fabrication of evidence."

Bromwich's report was based on an investigation of just three of the laboratory's 25 major units. Among its most damaging assertions were that scientifically flawed or inaccurate testimony was presented by lab examiners who stretched facts to implicate defendants. The report specifically criticizes 14 individuals who have worked in the lab, among them top managers who allegedly failed to address problems when they came to light.

The report concluded that in the World Trade Center bombing case an examiner from the laboratory's Explosive Unit gave "inaccurate and incomplete testimony and testified to invalid opinions that appeared tailored to the most incriminating result."

The examiner, David Williams, stated that urea nitrate was the main explosive even though, according to the report, FBI chemists working the case "did not find any residue identifying the explosive at the World Trade Center." Williams, it said, "filled that scientific void." The examiner ultimately conceded during the investigation "that he had no basis from the crime scene for determining the type of explosive used."

In response the FBI cited a finding

by the prosecutor in the case that Williams's testimony taken as a whole was proper and that none of the inaccuracies cited in the report were significant in the juries deliberations.

In the Oklahoma City bombing case, the inspector general's investigation found that the same examiner offered assessments based on no scientific facts. Specifically, Williams identified the type of explosive based on substances the suspects were known to possess rather than evidence developed at the scene of the crime. The report concluded that "his work was flawed and lacked a scientific foundation. The errors he made were all tilted in such a way as to incriminate the defendants."

In this case, the FBI and Williams objected to the report's conclusions and insisted that he acted properly. Williams is not on the list of witnesses prosecutors plan to call in the trial of Oklahoma bombing defendant Timothy J. McVeigh; the prosecutors will rely on British forensic experts instead.

The Justice Department did not recommend any sanction against Williams or any of the other lab personnel criticized in the report although it suggested that several including Williams should be transferred out of the laboratory.

While recognizing Whitehurst as the individual who brought the laboratory's problems to light, the report sharply criticizes him for "his frequently overstated and incendiary way of criticizing laboratory personnel."

Whitehurst in an interview yesterday said he was not surprised by the government's criticism. "The mode of operation in that culture is to shoot the messenger," Whitehurst said. "I didn't do anything wrong. I think the report is a good first step. The next step is the establishment of true oversight."
