

THE NATION

# Lab is thrust under microscope

## Three cases characterize FBI problems

By Gary Fields  
USA TODAY

The Justice Department inspector general's report reveals a lab rife with shoddy work, lax procedures and questionable practices.

The report focuses on nine people who worked at the lab and singles out three for the most severe criticism, including Frederic Whitehurst, a former lab supervisor and whistleblower who brought the case to public attention.

Three cases symbolize the lab's problems.

**United States vs. Psinakis.** Explosives lab examiner Terry Rudolph testified in this 1989 California case about his identification of the explosive residue PETN on evidence.

During an evidentiary hearing, Rudolph was asked by the judge in the case why tests he had conducted were not documented in his notes. His re-

### PRINCIPAL FINDINGS IN THE FBI LAB CASE

- ▶ "Scientifically flawed testimony" in four cases, including the bombing of the World Trade Center.
- ▶ "Inaccurate testimony" by laboratory examiners in the World Trade Center case, in a misconduct hearing involving Florida Judge Alcee Hastings, and in a Florida case in which George Trepal was convicted of murder by adding poison to bottled Coca-Cola.
- ▶ "Testimony beyond the examiner's expertise" in the World Trade Center and Hastings cases, and in the investigation of Avianca Airlines Flight 203, which exploded in 1989 and killed 107 people on board.
- ▶ "Improper preparation of laboratory reports" by three examiners in the explosives unit, who altered, omitted or improperly supplemented some of the internal reports by scientist-agent

The Associated Press

Frederic Whitehurst, the chief whistleblower.

▶ "Insufficient documentation of test results" by an examiner who worked on hundreds of cases, including the Unabomber investigation, and by the central toxicology unit chief.

▶ "Scientifically flawed reports" in the probes of the Oklahoma City bombing and the mail bomb killing of federal appellate Judge Robert Vance, and in a few instances by an explosives unit examiner who altered Whitehurst's report.

▶ "Inadequate record management and retention system" by the lab.

▶ "Failures by management" to resolve allegations in a number of cases.

▶ "A flawed staffing structure of the explosives unit."

sponse: "When I examine a case I put in my notes things that are important to me when I ... give testimony. I don't write my notes for the United States attorney. I don't write my notes for the defense. I write my notes for myself."

He went on to say he had done thousands of tests since 1982 and could not possibly remember them all. The judge asked, "Isn't that one of the reasons you keep notes?"

A defense explosives expert testified that the tests Rudolph

had conducted were not sufficient to determine that the residue was PETN. The defendant was acquitted.

The U.S. attorney prosecuting the case later wrote a four-page letter to the FBI lab director complaining that Rudolph's performance was deficient, that the judge had nearly excluded his testimony, and that the defense had impeached his scientific work and conclusions.

Rudolph is now retired. The report recommended that a notation be put in all his case files

about the investigation.

**World Trade Center and Oklahoma City bombings**

Lab examiner David Williams handled both cases.

In the World Trade Center trial, he testified that the defendants had the capacity to manufacture 1,200 pounds of the explosive urea nitrate. But the inspector general found that his testimony "was based on improper non-scientific grounds and appeared to be tailored to correspond with his estimate of the amount of ex-

plosive used in the bombing." Under questioning by the inspector general, Williams admitted he had no basis from the crime scene for determining the type of explosive. He acknowledged that based on the crime scene, the main charge "could have been anything."

The report finds that many of the same errors were committed again when Williams gave his report in the Oklahoma City bombing.

Williams' identification of the device used in the blast as an ammonium nitrate fuel oil bomb was based on the fact that one of the defendants had bought ammonium nitrate fuel components, the report said.

The inspector general recommended that Williams be reassigned outside the lab.

The report also includes harsh criticism of Whitehurst, who is described as "an experienced scientist who identified significant problems in certain cases" but whose allegations of perjury and fabrication of evidence by colleagues "were not supported by the facts uncovered in the investigation."

▶ Crime lab report, 1A