

## **FBI's Tarnished Image is Taking Another Hit - Document Debacle Follows Spy Scandal**

Dallas Morning News, The (TX)

May 12, 2001 | Michelle Mittelstadt | Page: 1A | Section: NEWS

FBI mistake fuels suspicions among some WASHINGTON - It's been a terrible spring for the FBI, which treasures its image as the nation's premier law enforcement agency. Already hurting from the discovery that a spy apparently toiled in its midst undetected for 15 years, the last thing the bureau needed was another embarrassment.

But with the revelation that the FBI withheld evidence from Timothy McVeigh's defense team, the bureau was plunged into the eye of another storm, just six days before the Oklahoma City bomber's scheduled execution.

Attorney General John Ashcroft described the missing evidence as immaterial to the trial's outcome but nonetheless postponed the execution for 30 days.

"I regret that these steps which I have taken were necessary, but I take them in the interest of the confidence the American people ought to have in their judicial system."

Mr. Ashcroft also initiated an inquiry into the belated discovery of the 3,135 documents - the second investigation of the FBI he has ordered in three months on the job.

The first came in February, after the bureau was rocked by the arrest of Agent Robert Philip Hanssen, a 25-year counterintelligence expert accused of selling secrets to Moscow.

The spy scandal was merely the latest in a series of controversies that have dogged the bureau in recent years, including a botched Chinese espionage investigation, persistent problems in the FBI crime lab and revived questions over the FBI's conduct during the 1993 Waco siege.

At FBI headquarters, officials didn't return calls Friday when asked about the latest blemish to the agency's reputation. However, FBI agents say the string of embarrassments is taking a toll.

"If you're asking me what the discomfort level is among the agent population over two or three or four disturbing circumstances happening seemingly simultaneously, there is a high discomfort level," said FBI Special Agent John Sennett, president of the FBI Agents' Association. "We are a proud organization, and we don't like to be embarrassed."

He added, "They are completely disconnected events, but since all are in the news right now, they have a cumulative effect from a PR standpoint - and there's no denying that they do. And that's regrettable. ... But for those looking for a pattern of mismanagement, it's not there."

FBI officials say their failure to turn over the documents to lawyers for Mr. McVeigh and accomplice Terry Nichols before their 1997 trials was inadvertent. But it's not the first time the bureau has belatedly come across information in a high-profile case.

"This episode is not the FBI's first black eye," said McVeigh lawyer Nathan Chambers. "Now we see yet again that the agency that holds itself out as the premier law enforcement agency in the world is incapable of conducting an investigation in a manner that instills trust and confidence."

In 1999, Attorney General Janet Reno dispatched U.S. marshals to FBI headquarters to seize previously undisclosed recordings that showed federal agents using pyrotechnic tear gas in the final hours of the Branch Davidian siege. Bureau officials had insisted in sworn affidavits that they had no footage showing such use.

Last week, the FBI came in for serious criticism from a House committee investigating the Boston FBI office's cozy ties with mob informants. A Massachusetts man, Joseph Salvati, spent 30 years behind bars for a murder the FBI knew he did not commit. Mr. Salvati and a co-defendant were exonerated this year after a judge concluded that the FBI hid evidence that would have proved their innocence in order to protect bureau informants.

"This whole episode is disgraceful," House Government Reform Committee Chairman Dan Burton, R-Ind., said during the hearing.

And the bureau has come under attack in recent weeks for withholding crucial evidence from its investigation of a notorious civil-rights era crime: the 1963 Birmingham church bombing that killed four black girls.

Former Ku Klux Klansman Thomas Blanton Jr. was convicted last month of murder in the church bombing, largely on the basis of an FBI surveillance tape that the bureau kept from Alabama prosecutors who investigated the bombing in the 1970s. Bureau officials say they weren't trying to hinder prosecutions in the case.

The newly found Oklahoma City documents fueled the ire of criminal defense lawyers who have gone up against the bureau in court.

"Well, I am angry because this is what the FBI does: They lie to the prosecutors. We've caught them doing it again and again and again," lawyer Michael Tigar, who represents Mr. Nichols, said on CNN.

Gerry Spence, who represented white separatist Randy Weaver after a government raid on his Ruby Ridge, Idaho, home in which his wife and son were killed, said this merely is the latest in a long string of cases where the FBI has withheld information.

"I attribute it to the fact this institution called the FBI is not our guardian, it's our prosecutor," Mr. Spence said. "If they can do this to McVeigh, in the most heinous crime of the century, then they can do it to the most innocent of us."

There was no intent to hide the Oklahoma City documents - which also weren't shared with government attorneys - several prosecutors in the case said.

"It's an inexcusable error, but I'm convinced it's human error and nothing intentional," said former federal prosecutor Scott Mendeloff, now in private practice in Chicago.

The head of the Oklahoma City investigation, Dallas FBI Special Agent Danny Defenbaugh, denied any deliberate intent to conceal information.

"We're not hiding anything," Agent Defenbaugh said. "This storm will pass."

While FBI leaders work hard to maintain excellent relations on Capitol Hill, it may be some time before the current controversy wanes. The bureau's congressional overseers immediately vowed to investigate the matter, which FBI officials ascribed to problems with the bureau's computer systems.

A frequent FBI critic, Sen. Charles Grassley, described the bureau's lapse as "unconscionable."

"If this were the first time that documents suddenly appeared, I might be persuaded by the FBI's computer theory. But I've seen too much to not have a very high level of skepticism," the Iowa Republican said. "We saw documents suddenly appear in the Waco, TWA Flight 800 and Wen Ho Lee cases."

Mr. Grassley long has faulted a "cowboy culture" at the FBI, which he views as more interested in public relations victories than substance. "We see too often the withholding of evidence ... the doctoring of evidence to bring about certain results. That hurts the FBI," he said.

The document debacle comes just a week after FBI Director Louis Freeh announced he would step down in June, with two years remaining on his 10-year term. The Bush administration has given no indication when his replacement might be named.

Staff writers David Jackson, Todd Bensman and Robert Dodge contributed to this report.

Caption: PHOTO(S): 1. Thomas Blanton Jr. 2. Robert Haasen 3. Wen Ho Lee 4. Robert Jewell CHART(S): 1. HOW THE EVIDENCE WAS OVERLOOKED 2. FBI PROBLEMS