

# **Nichols Witness Says Scientist Lied**

by Tim Talley, Associated Press | 5/19/04

A government scientist lied when he claimed that ammonium nitrate crystals found on Oklahoma City bombing debris had been embedded by the force of the blast, an FBI whistleblower testified Wednesday at bombing conspirator Terry Nichols' state murder trial.

Frederic Whitehurst, testifying for the defense, said an FBI forensic scientist he trained himself, Steven Burmeister, also lied when he testified that the crystals came from the kind of fertilizer believed to have been used in the bombing.

Whitehurst said there was not enough evidence to support either of Burmeister's conclusions.

"He is my student. And I trust him like a brother. But he lied under oath. He lied," Whitehurst said, appearing to grimace with emotion.

The bomb destroyed the Oklahoma City federal building on April 19, 1995, killing 168 people.

Whitehurst said he questioned Burmeister's truthfulness after reviewing transcripts of his testimony at the 1997 federal trials of Nichols and bomber Timothy McVeigh who was executed in 2001.

Burmeister's testimony was the same when he testified at Nichols' state trial last month. Prosecutors have said Burmeister's discovery is key to proving Nichols helped McVeigh gather components and build the bomb.

Whitehurst is an FBI whistleblower whose mid-1990s allegations of shoddy work inside the FBI lab led to widespread changes.

The Justice Department inspector general's office investigated the lab for 18 months and criticized the facility for flawed scientific work and inaccurate, pro-prosecution testimony in major cases, including the Oklahoma City bombing.

The Associated Press last year reported that Burmeister himself alleged to the Justice Department's inspector general that the bombing evidence was tainted by shoddy work and contamination problems, then recanted the allegation a few months before he testified in the McVeigh trial.

Whitehurst's testimony focused on a shredded piece of plywood recovered two days after the bombing that authorities believe came from the cargo container of the Ryder truck that delivered the bomb. The debris, found in a parking lot across the street from the Alfred P. Murrah Federal Building, is the only direct evidence of the explosive used.

Whitehurst said he saw the crystals through a microscope after Burmeister discovered them, but that it was impossible to say whether the crystals were embedded or sprinkled on the debris as a result of contamination.

"I saw a lot of these little crystals on the surface," Whitehurst said. "They were simply adhering to the surface."

Whitehurst said that ammonium nitrate could have been in the parking lot for a number of reasons.

Whitehurst said he was apprehensive about the discovery of the crystals because they were on debris that had been exposed to rain and water from fire hoses used to fight fires following the bombing. The crystals dissolve in water, Whitehurst said.

"It just leaves me as a scientist, knowing how these crystals act, leaves me uneasy," he said.

Whitehurst testified that Burmeister began referring to the crystals as embedded following a meeting with federal prosecutors involved in McVeigh's trial.

During the meeting, prosecutors asked Burmeister whether he could determine that the crystals were embedded or sprinkled on the surface. Burmeister said then that he could not tell, Whitehurst said.

Whitehurst also said that Burmeister misinterpreted scientific evidence to conclude that the ammonium nitrate came from fertilizer nodules as opposed to some other form.

Special Agent Ann Todd, a spokeswoman for the FBI laboratory in Washington, declined to respond to Whitehurst's testimony, saying it wasn't appropriate to comment during an ongoing trial and that she wanted to "preserve the integrity of the judicial process."

Nichols, 49, could face the death penalty if convicted of 161 counts of murder in the bombing. A federal jury found him guilty in 1997 of bombing-related charges and a judge sentenced him to life in prison.

The state charges cover the other 160 people who died and one victim's fetus.