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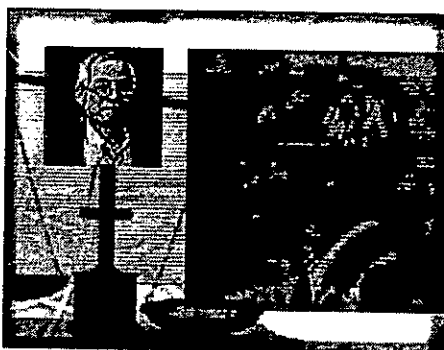
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FBI official denies giving misleading testimony in Wen Ho Le case

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By Terry Frieden
CNN Washington Bureau

WASHINGTON (CNN) — The FBI released documents Friday in an effort to refute a new General Accounting Office report that claims a top FBI official gave misleading testimony to Congress two years ago in the Wen Ho Lee investigation.

The FBI's response came just as the GAO officially unveiled its finding that Assistant FBI Director Neil Gallagher gave "inaccurate and misleading" information to a Senate

committee probing the government's handling of allegations against nuclear physicist Wen Ho Lee, who was accused of stealing nuclear secrets from the Los Alamos National Laboratory.

At issue is the truthfulness of Gallagher's contention that the FBI had "full confidence" in the Energy Department's initial inquiry that identified Lee as a suspect. The GAO said Gallagher's Senate testimony in June 1999 came five months after FBI agents in New Mexico had informed FBI headquarters of "serious concerns" about the Energy Department's inquiry. Gallagher heads the National Security Division, which oversees espionage investigations.

"Although we determined that Mr. Gallagher's testimony was inaccurate, we were unable to determine whether he intentionally misled the committee," the five-page GAO letter concluded.

Robert Hast, the author and chief of the GAO Office of Special Investigations, concluded Gallagher "had ample opportunity to know and should have known" of the FBI's misgivings about the Lee investigation.

Aware of the conclusions in advance, Gallagher on Wednesday wrote to the GAO, the investigative arm of Congress, strongly refuting the findings. His letter was among the documents made public Friday by FBI headquarters.

"I respectfully disagree with the conclusion of the report that a portion of my

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1 testimony was 'misleading,' " Gallagher said. "At no time during my 28-year career in the FBI have I ever misled or intentionally misinformed a member of Congress," he said.

2 Gallagher acknowledged that the memo from investigators expressing concerns had been included in the briefing book prepared for his Senate testimony, but he said he had not read it.

3 "The reason I did not review the section of the briefing book on polygraph (where the January 1999 document is located) was because the details of the polygraph were not a critical aspect of the testimony and I did not anticipate any questions in that area," Gallagher said.

4 Lee had passed, then failed polygraph exams. In December 1999, the government charged Lee with 59 counts of mishandling classified information. When the prosecution's case later fell apart, Lee pleaded guilty to a single count of downloading sensitive data. Lee was not only set free, but also received an apology from a federal judge for having spent nine months in custody.

5 On Friday, the FBI also released a November 1999 letter from Gallagher to U.S. Sen. Fred Thompson, R-Tennessee, chairman of the Governmental Affairs Committee, saying he had subsequently become aware of the FBI concerns and that if he were to testify again, "I would have a different response."

6 The GAO also pointed to a February 1999 memo bearing Gallagher's initials that focused on the Energy Department's inquiry.

7 In his response to the GAO, Gallagher said a subordinate had initialed for him and that he had not seen the document. "These were not my initials, and the procedures used were consistent with the FBI policy of initialing for a superior," he said.

8 The GAO examination had been requested by Sens. Arlen Specter, R-Pennsylvania, Charles Grassley, R-Iowa, and Robert Torricelli, D-New Jersey.

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