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FBI source: McVeigh error suspected for months



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From CNN Justice Correspondent Kelli Arena

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WASHINGTON (CNN) -- At least one FBI field office suspected as early as January that some documents in the Timothy McVeigh case had not been entered into the agency's database system, an FBI source told CNN.

FBI Director Louis Freeh was not told of the problem -- which prompted Attorney General John Ashcroft to postpone the convicted Oklahoma City bomber's execution for a month -- until this week, the agency has acknowledged.

Archivists began compiling information about the convicted mass murderer last December, the source said. As early as March, a cross-check of paper documents with the central database confirmed the field office's January suspicions and showed that some documents had never been entered into the database, the source said.

It was only late last month, though, that it became clear the documents had never been turned over to lawyers for the prosecution or the defense, the source said.

More than 3,100 pages of documents and tapes had never been given to lawyers in the



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had never been given to lawyers in the Oklahoma City bombing, the FBI discovered. Ashcroft announced Friday he was delaying McVeigh's execution until June 11 to give defense lawyers time to review the documents and take any action they felt was necessary.

They included documents from FBI field offices around the country. Agents at the Oklahoma City field office did not realize the magnitude of the oversight and waited until all the information had been gathered before alerting superiors at FBI headquarters last Tuesday, the source said. The FBI has said Freeh himself was not told about the omissions until Thursday.

McVeigh's former Army buddy Terry Nichols, who is serving a life prison sentence for conspiring to build the bomb and helping McVeigh, filed an appeal at 11:45 p.m. EDT Friday to the U.S. Supreme Court for a new trial as a result of new disclosures, according to his lawyer, Michael Tigar.

There was no timetable for the high court to consider his request. His previous bid for a new trial was rebuffed by the trial court and appeals courts.

McVeigh, 33, a decorated Gulf War Army veteran, had previously dropped all appeals in his case, saying he preferred to die rather than spend his life in prison. His attorney, Nathan Chambers, said "it is certainly possible" that McVeigh could reverse that decision after this week's disclosures.

Criticism of FBI record-keeping is not new. In 1999, the Justice Department's inspector general issued a report saying that, due to inadequate procedures at the FBI, it was impossible to tell by checking a central database whether it included all the information the agency had. And last month, Congress sent a letter to the FBI asking Freeh for an explanation of the computer systems.

"There is complete agreement within the bureau, the Department of Justice, the administration and Congress that the FBI's automated record system is antiquated and based on obsolete technology," FBI spokesman John Collingwood said Saturday.

"Congress has authorized and funded the bureau to address this problem. FBI Director Louis Freeh brought in a former IBM executive to deal with the issue of information technology. But, regarding the system, there is a total lack of internal confidence and a lack of ability to do basic data searches. This is an issue on which all parties agree."

But Chris Tritico, a former attorney for McVeigh, said the FBI's oversight was intentional.

"There have been too many documented cases dating back years where the FBI in cases of this magnitude comes up late in the game: 'Oh, here we didn't

Media)

McVeigh lawyer Robert Nigh says his client will evaluate new information to decide whether he now wants to fight execution

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FBI documents from special agent in charge (FindLaw) (PDF format)

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have this stuff, we never turned it over.' No, I don't believe this was an honest mistake."

Ashcroft ordered the department's inspector general to look into why the documents had not been given to the defense team ahead of McVeigh's 1997 trial. That review could result in disciplinary actions against some agents.

In addition, a member of the Senate Judiciary Committee plans to ask for hearings to investigate the incident. Sen. Dick Durbin, D-Illinois, also said he will propose legislation in the coming weeks to create an internal review body within the FBI.

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