CRIME LAB OVERSIGHT

Crime lab errors and misconduct cause wrongful convictions

The Innocence Project has found crime lab errors, both inadvertent and calculated, to be a leading contributor to wrongful convictions. Historically, however, states are required to do nothing to remedy – or even investigate – these problems despite proof of their existence.

By requiring that crime lab errors and misrepresentations be investigated and remedied, we ensure the integrity of the forensic evidence used to convict the guilty and acquit the innocent.

EXAMPLES OF CRIME LAB ERRORS

In the laboratory:
- Contamination
- Mislabling of evidence

Information provided in forensics reports:
- Falsified results (including “drylabbing,” providing conclusions where tests were never conducted)
- Misinterpretation of evidence

In the courtroom:
- Suppression of exculpatory evidence
- Providing a statistical exaggeration of the results of a test conducted on evidence
- Providing false testimony about test results

Most States are required to address crime lab error – but don’t

In 2004, Congress passed the Justice For All Act (H.R. 5107), which requires all states seeking federal Paul Coverdell Forensic Science Improvement Grants to certify that:

“with respect to any forensic laboratory system, medical examiner’s office, coroner’s office, law enforcement storage facility, or medical facility that will receive any portion of the grant – that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct by employees or contractors substantially affecting the integrity of forensic results.”

➢ Despite this requirement, the Innocence Project has uncovered many examples of oversight schemes that, while funded, fail to meet the Coverdell requirements

➢ The crime lab oversight provisions in Section 1 of Texas’s House Bill 1068 (2005 regular session) is a good model for other states.
The necessary components of ensuring crime lab quality are:

- **A System of Accreditation**: At a minimum, accreditation must involve: rigorous quality control and quality assurance review, periodic inspections by an external independent agency, and spot-checking of technician’s data.

- **Licensure and Certification**: Qualified technicians are the backbone of any laboratory producing competent results. National standards must dictate the degree of requisite education, as well as the technical and training requirements of lab employees. While accreditation sets a baseline level of quality assurance standards, they cannot be met without the presence of qualified technicians.

- **Oversight Commissions**: Because no entity that is responsible for serving the public good can be expected to identify its shortcomings or pinpoint the source(s) of its own problems, states should establish independent forensic science commissions that direct independent external investigations into allegations of misconduct, negligence or error, committed by employees or contractors of labs or entities that produce forensic findings.

- **Setting Standards for the Use of Forensic Science**: A forensic science oversight scheme (e.g. a state Forensic Science Commission) should be charged with:
  
  - Ensuring that only valid sciences are utilized;
  - Making certain that quality assurances and quality controls are employed; and
  - Establishing the oversight mechanism that requires reporting, investigation and remedial action upon the incidence of crime lab error

### Case in Point: Jimmy Ray Bromgard – Montana Exoneree

After over 15 years in prison, post-conviction DNA testing proved in 2002 that Jimmy Ray Bromgard did not commit the child rape for which he’d been convicted. At trial, the prosecution’s case heavily relied upon the testimony of the state’s leading forensic expert and then-director of the Montana Department of Justice Science Division, Arnold Melnikoff. Mr. Melnikoff testified there was less than a one in ten-thousand (1/10,000) chance that two hairs found on the victim’s bedsheets did not belong to Mr. Bromgard. The numerical probability asserted by Mr. Melnikoff, was completely groundless; there has never been a standard upon which to form statistical conclusions about hairs compared via microscopic inspection. Following Mr. Bromgard’s proven innocence, his attorneys reexamined other convictions that had been driven by Mr. Melnikoff’s testimony. In two cases, defendants were exonerated through DNA testing and their convictions were overturned.

Had an independent oversight entity been in place to identify lab errors, ensure that only valid sciences were employed, and review the use of “expert” testimony, it is likely that the incorrect assertions made by Mr. Melnikoff in Mr. Bromgard’s trial would have been recognized. It is also likely that Mr. Melnikoff’s misconduct would have been identified earlier. Instead, Mr. Melnikoff, both in Montana and later during his work at the state crime laboratory in Washington, went on to provide testimony in hundreds of other cases.