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MORE LABS UNDER THE GUN

Resource issues, poor oversight and pressures to produce keep plaguing crime labs



By Julius (Jay) Wachtel. “Thank God it got dropped. Now I can get on with my life.” That’s what a relieved thirty-year old man [said last month](#) as he left the San Francisco courthouse, his drug charge dismissed, at least for the time being. He’s one of hundreds of beneficiaries of a scandal at the now-shuttered police drug lab, where a key employee stands accused of stealing cocaine to feed her habit.

Problems surfaced last September when veteran criminalist [Deborah Madden’s](#) supervisor and coworkers became concerned about her “erratic behavior.” Madden was frequently absent or tardy, and when present often stuck around after closing hours. She had recently broken into another analyst’s locker and when confronted offered a flimsy excuse. By November her performance had deteriorated to such an extent that prosecutors thought she was purposely sabotaging cases.

Coincidentally, a team of external auditors was in town to review the SFPD laboratory in connection with its application for [accreditation](#). They weren’t informed that Madden had taken leave to check into an alcohol rehab clinic, nor that her sister told a supervisor that she found cocaine at Madden’s residence, nor that [a discreet audit](#) of the drug lab’s books revealed cocaine was missing from at least nine cases. Indeed, a formal criminal investigation wasn’t launched until February, when officers searched Madden’s residence. That turned up a small amount of cocaine and a handgun, which she was barred from having under state law because of a [2008 misdemeanor conviction](#) for domestic abuse.

When interviewed by detectives [Madden conceded](#) filching “spilled” cocaine from five evidence samples. But she had an excuse. “I thought that I could control my drinking by using some cocaine.... I don’t think (it) worked.” Madden otherwise held

firm, claiming that sloppy handling by lab employees caused “huge” losses in drug weights. “You just have to check weights of a lot of stuff, because you will see discrepancies. That’s all I’m going to say. I mean, I think you want to put everything on me, and you can’t because that’s not right.”

The external reviewers were never told about Madden. Released in March, [their report](#) nonetheless chastised the drug lab for being understaffed and poorly managed, with three drug analysts expected to process five to seven times as much evidence as the statewide average, thus affecting the quality of their work. Evidence wasn’t being properly tracked or packaged, precautions weren’t being taken against tampering, and scales and other equipment weren’t being regularly calibrated, making measurements uncertain.

Chief Gasçon shuttered the drug lab March 9, throwing a huge monkey wrench into case processing. That, together with Madden’s alleged wrongdoing, led the D.A. to dismiss hundreds of charges. Dozens more convictions are at risk because Madden’s criminal record was never disclosed to defense lawyers, depriving them of the opportunity to impeach her testimony.

So far Madden hasn’t been charged with stealing drugs from the lab (she’s pled guilty to felony possession of the small amount of cocaine found in her home.) Really, given how poorly the lab was run, figuring out just how much is missing, let alone what’s attributable to theft and what to sloppiness, may be impossible.

In “[Labs Under the Gun](#)” we reported on misconduct and carelessness at police crime labs from Detroit to Los Angeles. Here are a few more examples:

- On March 12, 2010 Federal prosecutors revealed that six FBI lab employees may have performed shoddy work or given false or inaccurate testimony on more than 100 cases since the 1970’s. The disclosure was prompted by the exoneration of [Donald Gates](#), who served nearly three decades for rape/murder thanks to testimony by FBI analyst Michael P. Malone that one of Gates’ hairs was found on the victim. Only thing is, the hair wasn’t his, as DNA proved twenty-eight years later.

As it turns out, prosecutors were first alerted to problems with Malone and his coworkers as early as 1997, when the DOJ Inspector General issued a stinging report discrediting analytical work in the Gates case and others. It then took *seven years* for DOJ to order prosecutors to contact defense lawyers. Even then, nothing happened. “The DOJ directed us to do something in 2004, and nothing was done,” a prosecutor conceded. “This is a tragic case. As a prosecutor it kills you to see this happen.”

Gates was released in December 2009.

- There was good news on February 17, 2010: an innocent person was exonerated. There was also bad news: [Greg Taylor](#), the man being freed, had served 17 years for murder, mostly because of false testimony that blood was found on his truck.

At his trial, jurors weren't told that the presence of blood was based on a fallible screening test whose results were quickly disproven by more sophisticated analysis. There was no blood – it was a false positive. Yet the examiner who ran the tests, Duane Deaver, never let on. This wasn't the first time: he had also kept mum about contradictory findings in an earlier case that resulted in the imposition of the death penalty. (That sentence was eventually vacated by a judge who rebuked Deaver for his misleading testimony.) Thousands of cases involving the lab are now being reviewed for similar “mistakes.”

- In December 2009 the [New York State Inspector General](#) disclosed that State Crime Lab examiner Garry Veeder had been falsifying findings for a stunning *fifteen years*. Writing one year after the analyst's [suicide](#), the IG reported that Veeder made up data “to give the appearance of having conducted an analysis not actually performed.” Veeder, who had conceded being unqualified, said that he relied on “crib sheets,” that others knew it, and that taking shortcuts was commonplace.
- In January 2009 the [Los Angeles Times](#) reported that goofs by LAPD fingerprint examiners caused at least two mistaken arrests. Reviews were ordered in nearly 1,000 cases, including two dozen pending trial. Six examiners were taken off the job and one was fired. Blame for the mismatches was attributed to inadequate resources and to lapses in training and procedures.

In 2009 the National Academy of Sciences issued a [blistering report](#) criticizing some forensic science practices as bogus and most others as being far less scientific than what we've been led to believe. Virtually every technique short of DNA was said to be infused with subjectivity, from friction ridge analysis (i.e., fingerprint comparison) to the examination of hairs and fibers, bloodstain patterns and questioned documents.

That's a stunning indictment. If analysts' conclusions have as much to do with judgment as with (supposedly) infallible science, it's more critical than ever to give

them the training, resources and *time* they need to do a good job. But if resource-deprived, loosey-goosey, production-oriented environments are what's considered state of the art, forensic "science" in the U.S. still has a very long way to go.