

Introducing doubt

Why the failure of Nassau County's crime lab needs thorough investigation

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BY KEVIN KEARON

The avalanche of disclosures that led to the sudden closing of the Nassau County Police crime laboratory is chilling, and the implications staggering.

The county now faces the likelihood of false convictions and the reversal of valid ones in potentially thousands of cases as a result of shoddy lab work. The county also faces liability in a possible cascade of lawsuits stemming from overturned convictions.

What emerged as a series of relatively benign laboratory shortcomings has mushroomed into what appears to be an appalling pattern of unprofessional conduct, scandalous negligence, ineptitude, grossly inadequate training, lack of supervision and bad science. Convictions dating from at least 2006, when the lab was first placed on probation, and maybe earlier, are now suspect, as are all pending lab-based criminal prosecutions.

Four years ago the lab was placed on probation by the American Society of Crime Laboratory Directors for serious shortcomings. Late in 2010, at the request of the New York State Commission on Forensic Science and others, another inspection was done and resulted in the lab being placed on probation a second time, a dubious distinction without precedent in the United States. On Feb. 10, testing for narcotics was stopped, and the entire lab was closed a week later. And on Friday, Gov. Andrew M. Cuomo appointed state Inspector General Ellen N. Biben as special prosecutor in the case.

The apparent lack of integrity at the crime lab undermines the credibility of the police department, the district attorney's office and, most impor-

tant, the public's confidence in the fair administration of justice in Nassau County.

Nothing is worse than a false conviction. Can you even imagine your life unraveled because of one? There are innumerable reasons why people end up charged with and often convicted of crimes they didn't commit. Forensic evidence, such as blood samples, fingerprint and hair analysis, is crucial to establish the correct identity of perpetrators. Ballistics evidence is indispensable to establish that a particular gun was used in a shooting. Blood and breath evidence analysis is critical in drunken-driving prosecutions and vehicular homicide cases. Even crime victims don't want to see the wrong person convicted.

The criminal justice system is only as good as its players. Without fair-minded, even-handed judges, ethical prosecutors, zealous defense lawyers and honest police officers, the system collapses and injustices abound. Honest police work is essential for the system to be fair. The Bill of Rights was not written to protect citizens against overzealous defense attorneys, but against unscrupulous or incapable government officials, often motivated by a "win-at-any-cost" approach to law enforcement.

The tsunami of allegations involving the lab left county officials with little choice but to close it. This was done without any plan for its replacement beyond trying to figure out how to outsource most scientific testing at enormous expense to a county already on the financial brink.

Given the scale of the failures and the revelation that the police knew about them, the question naturally arises: Was there a cover-up?

No one is alleging criminal



ILLUSTRATION BY TIM FOLEY

violations or ethical lapses. Yet. But it's no secret to anyone who has spent significant time around the criminal courts that dishonest and incompetent police work does happen and sometimes results in police perjury.

Anyone who watches "CSI" on TV can imagine what chaos reigns when integrity takes a holiday at a crime lab. When department officials and perhaps others have known for years of the lab's shortcomings and now let the rest of us in on it, the integrity of the entire criminal justice system suffers. When ethical prosecutions of criminal cases are made impossible by unethical treatment of forensic evidence, such integrity is lost altogether.

Scan the world and witness the difference between America and places where barbarism reigns. What separates us is respect for an individual's right to life, liberty, the pursuit of happiness and due process.

Due process is synonymous with fairness. The terms are interchangeable. Due process ensures that the important time-tested safeguards against false accusation and conviction are implemented.

A life can be turned upside down in a New York minute by a falsely positive drug test. All drug testing, most driving-while-intoxicated prosecutions, blood sample analyses, and fingerprint and ballistics testing rely on the legitimacy of scientific testing protocols.

Why do we have a presumption of innocence? To guard against the natural human tendency to presume guilt once an arrest has been made.

Why do we acknowledge a citizen's right to remain silent? To discourage harsh police interrogations that could induce false confessions.

Why does the prosecutor bear

the burden of proof? Because those who accuse must prove they're right.

Why must a jury verdict be unanimous in criminal cases? Because we want to be sure of guilt before we subject a human being to the indignity of incarceration.

Why do we demand proof beyond a reasonable doubt? Because we don't want to imprison people who might be innocent.

We demand more. And when a case involves lab evidence, it must be absolutely reliable — as Nassau County's apparently has not been.

Liberty is sacred. It can't be entrusted to a system that falls short of these standards.



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