

San Francisco police crime lab accused of cover-up

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The San Francisco police crime lab - just emerging from a scandal over its handling of drug evidence - is facing new accusations that officials covered up an error involving the mix-up of vials to be tested for DNA evidence.

At issue is a bungling of genetic material on the eve of a criminal trial in 2008 and the destruction of records that documented the exact evidence that was involved. Those actions raise serious questions about the integrity of the lab, which in October received a five-year accreditation after months of turmoil and allegations of evidence tampering.

During the first part of 2008, a new DNA technician discovered that two vials whose contents were about to be tested were apparently switched. The vials - one a control sample of distilled water that was visibly clear, and the other a vial containing a discolored liquid of potential DNA material - appeared to have been mixed up on a tray.

The discolored sample was in a slot reserved for the control sample. The rookie technician told her boss about the apparent mix-up. What happened next became the subject of an investigation by the accrediting agency that decides whether crime labs can be certified.

Investigating officials were not as concerned with the actual mix-up - it wasn't known how it happened - as they were with the way in which the crime lab handled the aftermath.

Anonymous letter

Auditors with the lab accreditation board of the American Society of Crime Laboratory Directors, which certifies labs across the United States, learned of the problem from an anonymous July 30, 2009, letter. The writer detailed what happened, calling it "sample switching," and alleged that the DNA lab director concealed the bungle on the eve of a criminal trial in 2008.

The letter said the labels were changed and records were altered to cover up what happened. Last year, auditors asked the police department about the matter and the then-crime lab director, Jim Mudge, wrote back that the department knew nothing about it. Mudge no longer runs the lab but remains at the department.

But further investigation by the auditors this year showed that workers were well aware of the matter.

"Interviews with laboratory staff verified that the sample mix-up did occur," according to the final auditors' report, released in September, about the 2008 incident.

"The supervisor authorized the analyst to correct the tube labels and the sample processing proceeded," the investigation found, noting that no further "corrective actions" were taken.

The lab's DNA director at the time, Matt Gabriel, has since left the lab and was not available for comment.

Documentation issue

Ralph Keaton, the executive director of the lab accreditation board of the American Society of Crime Laboratory Directors said Friday that his investigation focused not so much on the mix-up, but how it was handled.

He said he was concerned that the department had first denied knowing there was a problem. He said he was also concerned that lab workers destroyed the original lab notes documenting the mix-up.

"The evidence was not compromised, based on the interviews they (inspectors) conducted," Keaton said. "So we're talking about a documentation issue, which is an essential, central requirement."

Proper record-keeping

He said in order to get its full accreditation, the department had to prove it was keeping proper records over a three-month period.

"The lab demonstrated that they changed their procedure," he said. "That was absolutely essential to us."

The department's crime lab - sans its closed drug unit - was awarded a full five-year accreditation at the end of October. While Keaton's board was satisfied, he does not think that will be the end of the matter.

"I'm sure they will hear about it in the courtroom," he said.

Serious case

San Francisco Public Defender Jeff Adachi said his office is working to determine which case was involved. He said any mix-up should have prompted police to obtain a new sample from the evidence that was being tested. In any event, there is no way to know now what happened that day, he said, because records have been destroyed.

"We don't know which samples were being tested - we believe this is a very serious case, even a homicide case," he said.

"They destroyed the original document, the original log sheet - that is a huge smoking gun," he said. "They are saying that they later electronically recorded this information, but there is no way to confirm that."

Police Chief George Gascón said Friday that he has been assured that the problems associated with the DNA sample unit have been resolved.

Lt. Lyn Tomioka, the department's spokeswoman, said the department has conducted a full investigation into the incident and the findings are on the chief's desk. "It's still an active investigation," she said.

But based on the departmental guidelines in place at the time, she said, the destruction of the notes of the matter was not a problem, but she said the new guidelines dictate that any issues be documented.

"There was a problem. It was immediately corrected when it was found," Tomioka said of the DNA sample incident. "She (the technician) was confused and he (her supervisor) saw what was going on there and it was corrected."

Prior problems

Revelations that there were problems in the crime lab first surfaced in March, when the department was rocked by evidence-tampering allegations that forced the closure of its drug lab and prosecutors' dismissal of hundreds of drug cases.

Those accusations centered on ex-crime lab technician Deborah Madden, who left the department in late 2009 just as the lab began to suspect she was stealing drugs she was supposed to be testing.

The police department failed to inform auditors with the accrediting agency of the growing doubts about Madden until two weeks after it was given more time to satisfy auditors who were holding up accreditation on other issues. It ended up getting two extensions on its lapsed accreditation before satisfying auditors.

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<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/12/04/MN7I1GLK0L.DTL>

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