



Jurisprudence Section – 2006

E4 Crisis Management in the Lab: Legal Considerations in Conducting Audits and Other Investigations

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Attendees will learn about the full investigation, disclosure, and correction of errors within the laboratory system is crucial to maintaining the integrity of the criminal justice system. This panel's presentation will demonstrate the erosion of professional and public confidence in a laboratory system threatens current investigations and prosecutions and creates a serious risk to the criminal justice system as a whole.

The lack of strict adherence to scientific protocol and the failure to follow quality control reporting obligations render results from a laboratory system open to serious challenges concerning reliability and accuracy. The erosion of professional and public confidence in a laboratory system threatens current investigations and prosecutions and creates a serious risk to the criminal justice system as a whole. Prosecutors, defense attorneys, judges and juries rely on accurate results from laboratories. Full investigation, disclosure, and correction of errors within the laboratory system are crucial to maintaining the integrity of the criminal justice system.

Disabling the quality control and oversight measures by failing to report the discrepancies in cases means systemic problems will not be addressed before a crisis develops or before irreparable harm occurs. Contamination of evidentiary samples and the failure to recognize patently illogical results can falsely implicate individuals and lead to wrongful convictions. Contamination and error can also lead to the false exclusion of individuals, permitting dangerous criminals to remain at large. Finally, contamination and error can lead to the wrongful exoneration of guilty individuals and permit their return to society.

If an adequate investigation of the quality control lapses reflected in an individual case is not undertaken, a crisis within the laboratory system may develop. Insufficient review of an examiner's work contributed to a wrongful conviction and scandal at the Oklahoma City laboratory. The failure to correct systemic problems and to recognize warning signs of quality control deficiencies led to the Houston Crime Lab scandal which uncovered a wrongful conviction based on erroneous DNA evidence. The investigation of the Houston lab continues to garner front page headlines in the national media.

In 2005, the Commonwealth of Virginia received a critical audit by ASCLD-LAB for its work in the Earl Washington case. Peter Neufeld, counsel for Earl Washington, requested the audit from the Governor of Virginia after independent experts questioned the state lab's work. Betty Layne DesPortes, an attorney in Richmond, Virginia, also requested an independent audit of the state lab from legislators and the Governor. Neufeld and DesPortes will discuss these efforts to obtain an independent audit and need for established mechanisms to present claims of laboratory error or misconduct.

From 2001 through 2004, Sheri Mecklenburg was lead defense counsel on a series of cases alleging crime lab fraud against several scientists who had been employed by a public laboratory, which had been taken over by a State laboratory. The allegations generated headlines throughout the country and sent a shudder of concern throughout the legal and forensic communities. At the time that the allegations were first made, the State laboratory undertook an immediate investigation. That investigation proved to be crucial evidence in the litigation. Through these ground-breaking crime lab cases, Ms. Mecklenburg dealt with the legal ramifications of the laboratory's internal investigations, the potential audits, and public legislative hearings. Ms. Mecklenburg will discuss the legal lessons learned in laboratory responses to allegations of wrongdoing, and will review the response of labs around the country to allegations of wrongdoing and discuss the legal considerations of each of these responses. Ms. Mecklenburg will address privileges which potentially apply to these laboratory responses and how best to preserve and assert those privileges

Audits, Lab Error, Quality Assurance