



A38 There is an Integrity Problem at the Lab - What Do You Do?

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After attending this presentation, attendees will learn how to deal with an integrity problem at a forensic laboratory from the perspective of the laboratory director, the police, the district attorney, the defense bar, and the independent Coverdell investigator.

The presentation will impact the forensic science community by discussing the variety of issues raised when an integrity problem is uncovered in a forensic laboratory, including how to investigate the problem, what to disclose to various stakeholders, what corrective actions should be taken by the laboratory, and the legal consequences to criminal prosecutions.

There are over 400,000 arrests in New York City every year. Approximately 100,000 of them are drug related. The New York City Police Laboratory tests about 40,000 controlled substances every year, more than any other laboratory in the nation. In 2007, a dry-labbing scandal hit the NYPD lab. It was alleged that chemists in the laboratory

were cutting corners and not properly testing the drugs they were assigned.

Coverdell Investigator: Pursuant to federal guidelines, the New York State Forensic Commission had to designate an independent Coverdell Investigator. In the Spring of 2007, the NYS Inspector General's Office was given that designation. Shortly thereafter the dry-labbing allegations arose. The allegations were investigated by the New York State Inspector General and a report citing serious irregularities in the controlled substance section of the NYPD laboratory was issued. The problems uncovered included sloppy testing, cutting corners, failure to properly report to regulatory authorities, and the lack of communication with customers. Though re-testing demonstrated that the items tested were in fact controlled substances, so that no defendants were wrongfully accused, the irregularities did call into question the propriety of the laboratory's procedures.

Responding to the Investigation: In 2008, the author joined the Office of the Special Narcotics Prosecutor and had the responsibility of coordinating the response to the Inspector General's report for the office and the five District Attorneys for the City of New York. The response to the Inspector General's report was coordinated by the Office of the Special Narcotics Prosecutor. The multi-faceted issues faced were: (1) the creation of a citywide strategy; (2) the practicalities of identifying the affected cases; (3) working with the NYPD on a remediation strategy; (4) appearing before the NYS Forensic Commission; and, (5) providing disclosure to defense counsel.

It Happens Again - New Investigation into the NYPD

Laboratory – 2010: In 2010, another integrity issue was discovered in the controlled substance section of the NYPD laboratory. It was alleged that a chemist was cutting corners in lab work and possibly switching vials of evidence.

Learning From Experience – Improved Approach to Integrity

Issues at the Lab: All parties learned from their experience with the 2007 matter. In this instance there have been significant improvements in how the information was reported, how the District Attorneys are working with the laboratory, and the corrective action to prevent similar problems in the future. Though the matter is still under review and investigation, the procedures to address the problem will be discussed.

Dry-Labbing, Investigation, Corrective Action