

Thousands imprisoned, some executed, based on false FBI lab reports

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A major inquiry conducted by the US Justice Department (DOJ) and the Federal Bureau of Investigation has found hundreds instances in which FBI forensic units charged with gathering data on cases involving violent crimes provided false information. The doctored FBI lab reports led to the imprisonment of thousands of innocent people, some of whom were executed, according to a report Wednesday in the *Washington Post*.

The newspaper reported, “Nearly every criminal case reviewed by the FBI and the Justice Department ... has included flawed forensic testimony from the agency...”

The inquiry, which covers cases dating prior to the year 2000, was launched after the *Post* published an exposé in 2012 about thousands languishing in prison and on death row due to the FBI’s false evidence. Throughout the 1980s and 1990s, FBI hair and fiber experts had claimed matches on hair in 2,600 cases that resulted in convictions and 45 where a death sentence was handed down.

Prior to the late 1990s, when modern methods of DNA analysis were introduced, it was routine for courts to accept claims that a defendant’s hair matched those found at a crime scene, based purely on a visual comparison, without any further analysis. These claims were completely bogus, but the FBI laboratory, celebrated by police and the media as the “gold standard” for forensic analysis, promoted this anti-scientific nonsense as correct procedure.

The *Post* notes that in the coming months the FBI will be notifying defendants in 134 non-capital and two death penalty cases of errors made during their trials. Only 10 percent of the total number of convictions in the period 1985-2000 have been reviewed.

The report states that the flawed methods and testimony of federal officials were systemic, and not

the result of individual misconduct, as the entire 10-member team responsible for the majority of the FBI’s forensic work was implicated in the findings. “This issue has been raised with the FBI but not resolved to date,” stated the DOJ’s former director of enforcement Maureen Killion in a 2002 email to then-assistant attorney general Michael Chertoff, among others.

The findings of widespread misconduct by the FBI come amid federal officials’ numerous attempts to stonewall the release of the information. The report notes that FBI officials first ordered a review of prior forensic evidence in 1997, but “inattention and foot-dragging by the Justice Department and the FBI led them to ignore warnings” about incorrect methods which had led to the imprisonment and deaths of untold numbers.

Furthermore, it was reported in 2012 that the Justice Department had long known of the flawed convictions, but had opted not to inform defendants or their lawyers about the suspicions, keeping them unaware they had the grounds for appeal. The inquiry was again held up in August 2013 when initial findings “troubled” officials because essentially every case reviewed showed false testimony, in which forensic analysts were found to have “exceeded the limits of science.”

In regard to the latter instance, James Aren Duckett, an inmate currently on death row for a murder conviction based on hair-related evidence, was denied an appeal by the US Supreme Court in the 11-month period in which the report was delayed, and now faces a limited number of legal options as a result.

“I don’t know whether history is repeating itself, but clearly the [latest] report doesn’t give anyone a sense of confidence that the work of the examiners whose conduct was first publicly questioned in 1997 was

reviewed as diligently and promptly as it needed to be,” Michael R. Bromwich, the former inspector general for the DOJ and currently a law partner at Goodwin Procter, said of the findings.

FBI officials said that the 11-month delay had arisen “from a vigorous debate that occurred within the FBI and DOJ about the appropriate scientific standards we should apply when reviewing FBI lab examiner testimony—many years after the fact.” Such an explanation defies logic, however, as even the *Post* notes that since the 1970s hair association was considered to be an invalid form of identification.

The inquiry into flawed forensic methods is the latest in a number of findings of mass injustice perpetrated by federal authorities. Last year, the *New York Times* published an account of internal investigations by the FBI between 1993 and 2011, finding that the FBI had declared its officers were justified in every one of more than 150 fatal shootings that occurred during that period.

That report had been prompted by criticism of the FBI’s fatal shooting of Boston Marathon bombing witness Ibragim Todashev in May of 2013, of which the agent involved was also absolved of guilt by federal officials in March of this year.



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