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Lawyers want a crime lab independent of SBI

The state's largest coalition of civil and defense attorneys is calling for the creation of an independent forensic laboratory, pointing to a series in The News & Observer highlighting biased and unscientific work at North Carolina's State Bureau of Investigation crime lab.

"Instead of being a tool of unbiased scientific analysis, with the chief goal being discovery of the truth, the SBI crime lab is often a tool of accusation and prosecution, with the chief goal being conviction," said Phil Baddour, a Goldsboro lawyer and president of N.C. Advocates for Justice, a group of nearly 4,000 private attorneys.

Baddour said in a statement that it is imperative the state build "an independent and fully funded crime lab, led and staffed by qualified scientists, who are not beholden to law enforcement, but are only beholden to the scientific method."

The call for an independent lab promises to bring an intense political battle. Some top legislative leaders indicated this weekend they will support measures to split the crime lab away from the SBI.

However, Attorney General Roy Cooper, a former legislator and a well-regarded Democrat who oversees the SBI, has said it's essential the lab stay put. In a July interview, Cooper cited concerns about analysts not having access to certain national databases unless they are sworn law enforcement officers.

A spokeswoman for Cooper did not return messages Sunday asking for a response to Advocates for Justice's call for removing the crime lab from SBI control.

The N&O has been investigating problems at the SBI since February, when Greg Taylor, a Wake County man, was exonerated after a revelation that SBI blood analyst Duane Deaver withheld crucial evidence indicating a stain on Taylor's SUV was not, in fact, blood.

Last week, the newspaper published a series, "Agents' Secrets," which illuminated a bias toward prosecution at the crime lab and analysis out of step with national scientific standards. Practices and policies, some of which were suspended in the wake of The N&O report, revealed a culture in which prosecutors' needs are met at a high cost to defendants. Agency leaders have ignored problems, defended shaky work and sometimes promoted the agents responsible.

The idea of forensic laboratory independence has been a central recommendation by the nation's leading minds called upon to study the strength of science used to solve crimes.

In 2009, the National Academies, the nation's leading advisory group on matters of science, medicine and engineering, urged states to make their labs independent.

"Forensic science serves more than just law enforcement; and when it does serve law enforcement, it must be equally available to law enforcement officers, prosecution and defendants in the criminal justice system," the 2009 report said.

Changes promised

The problems at the SBI crime lab aren't new. Neither are the warnings.

Defense attorneys, such as Diane Savage of Chapel Hill, began alerting Cooper and SBI leaders about problem lab work more than six years ago.

"They've had unclean hands for a long time," Savage said. "It was obvious to me that they didn't want to change anything."

In recent weeks, Cooper has promised significant changes at the SBI. In the face of questions from The N&O, Cooper replaced his SBI director and ordered his new chief to study policies and practices at the lab. He suspended the work of bloodstain pattern analysts and said the Firearms and Toolmark Identification unit also needs review.

An independent audit of the serology unit has been under way since March after problems surfaced in Taylor's case. That report is pending.

Cooper said last month that problems such as bias and favoritism can be addressed by changes to policies and procedures.

Defense attorneys aren't so sure.

"No policy is going to change the culture in which analysts see themselves as a tool for the prosecution," said Mike Klinkosum, a Raleigh lawyer and chairman of the Advocates for Justice task force that has been monitoring the SBI crime lab in recent months. "It will take a shift in culture. And we need to make sure that [the lab is] not staffed by police but by scientists."

Defense attorneys say they are bracing for major fallout from recent revelations. They expect a rash of cases, from rapes to capital murder cases, will be reviewed with an eye toward identifying erroneous lab work.

They suspect more defense attorneys will hire independent experts to check the work of SBI analysts, a cost that will most often fall to taxpayers.

"No one will take the SBI seriously ever again," said Jim Cooney, a Charlotte civil and defense lawyer.

And, as more problems come to light, defense lawyers fear the state will be forced to pay up, as it did to former death row inmate Alan Gell in 2009.

The state and its insurers paid Gell \$3.9 million because an SBI agent ignored evidence that showed the victim in that case was alive while Gell was in jail on another offense.

"That's what people refuse to recognize," Cooney said. "Every time you have a Gell or a Greg Taylor, you damage the whole system. People lose their faith and trust. The SBI can't get that back."

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