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SBI's bullet tests cold cases, indeed

Verifying the work of thousands of bullet and casing examinations performed by the State Bureau of Investigation will be challenging and could be impossible.

New SBI Director Greg McLeod has promised to audit the firearms unit after questions raised by The News & Observer about a troubling examination in a Pitt County case.

Even to review a random sample, the task could invite more questions than answers.

The SBI, as a matter of practice, doesn't take photos when comparing bullets in a case. Auditors and firearms experts say that the lack of documentation will likely force reviewers to call back the evidence in order to evaluate the work.

"All this evidence will need to be pulled back and retested ... if it even exists. This is a problem," said Randall Robbins, a former lab official at the Illinois State Police Crime lab who has performed audits of other crime labs.

Some of the bullets and casings analyzed by the SBI likely have been destroyed. Those that still exist are tucked away in clerk's offices or police departments across the state.

McLeod this week asked FBI officials and agents with the ATF for help reviewing specific cases.

The SBI has been under fire this month after a series of stories in The N&O pointed to shoddy, biased work at the laboratory. The agency's reputation was further shaken when two former FBI agents released a scathing audit revealing a practice of withholding critical blood evidence at the lab. They identified 230 cases tainted by the practice.

ASCLD-LAB has had its own difficulties; it failed to find the problems turned up in the recent audit or by the newspaper, including potential issues in the firearms unit.

Audits rely upon independent examiners being able to study the case file, look at the data and replication of the evidence and determine whether the analyst made the right call. Without photos or sketches of the bullets, experts say, the auditor will be at a loss.

Without the evidence, "The auditor will have to find that the lab produces results that can't be scientifically supported," said Janine Arvizu, an independent lab auditor from New Mexico. "This won't be a paperwork problem."

Why no photos?

The firearms unit came under attack this summer when David Sutton, a Greenville lawyer, asked a friend and former FBI analyst to take photos of bullets under a microscope in a case he worked.

Analyst Beth Desmond had testified that the mangled bullets were fired from the same type of gun: a Hi-Point 9 mm Model C.

The photos, however, raise serious questions about her determination, other firearms experts say. Some say it's impossible the two were fired from the same gun.

"After seeing those photos, I have serious issues with their work," said Amy Driver, an independent firearms examiner who worked for the Los Angeles Police Crime Lab until 2007.

Desmond has said that the photos don't capture what she saw during her examination in 2006. She defended her work and stood by her conclusions, which helped send Jemaul Green to prison for 23 years. His girlfriend at the time was also sent to prison. The SBI refused this summer to re-examine the bullets.

Desmond has no independent documentation of the evidence.

The SBI doesn't own cameras for the microscopes in the firearms unit. Cameras are relatively affordable, costing less than a few thousand dollars. SBI leaders say they now are considering buying some.

Driver, the firearms examiner, is mystified that the SBI doesn't photograph bullets. She said photography has been standard in the discipline for many years. During her six years with the Los Angeles crime lab, Driver said, she always took photos to show juries how she made her determination.

The bullets in the Pitt County case will be sent to an independent examiner to analyze. Pitt County District Attorney Clark Everett said he expects they will be sent away in the coming days.

McLeod asked FBI and ATF officials to review the bullets in Green's case.

Clerks of court are allowed to dispose of bullets submitted during trials shortly after the defendant has exhausted his appeals.

Some clerks, as a matter of practice, keep evidence as long as they have room. Others are cramped for space and routinely ask a judge for permission to clear space by destroying the evidence.

For the cases in which bullets still exist, getting them will be a challenge.

"This will be a timely and costly endeavor," said Arvizu, the auditor from New Mexico. "There's no way around it."

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