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FBI lab jeopardizes local cases

TAMPA — The FBI notified local prosecutors of possible problems in felony cases as early as 1998.

By **LYDA LONGA**
of The Tampa Tribune

Verdicts in 20 major criminal cases in Hillsborough County may have been tainted by FBI lab workers who were implicated in an 18-month federal investigation that uncovered flawed scientific work and inaccurate trial testimony.

The Hillsborough County State Attorney's Office has determined that convictions in at least three of the 20 cases were influenced by the testimony or lab results presented by the FBI technicians or by both.

The other 17 cases, including those of serial killer Bobby Joe Long and hate crime victim Christopher Wilson, have

On TBO.com

Under What's New at TBO, click on the FBI Laboratory link for a video clip of the Christopher Wilson trial and links to the lab's home page, historical timeline and a Department of Justice Special Report on problems at the lab.

yet to be reviewed by local prosecutors even though the FBI first alerted them to potential problems in 1998.

The U.S. Justice Department's Office of the Inspector General completed an investigation of the FBI crime lab in April 1997 after a whistleblower alleged wrongdoing by a handful of the lab's technicians. Investigators discovered a

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2 high-profile cases to be reviewed



Robert Joe Long confessed to killing nine women, mostly prostitutes, and to committing at least 100 rapes.

Convicted in 1994 of two murders and sentenced to two terms of death and more than 30 terms of life in prison for other convictions.

OTHER CASES, THIS SECTION-6



Kohut



Rourk



Pellett

In 1993, Mark A. Kohut, Charles P. Rourk and Jeffrey R. Pellett were sent to prison in the burning of New York tourist Christopher Wilson. Kohut and Rourk were convicted of attempted first-degree murder and sentenced to life in prison. Pellett pleaded guilty to charges of being an accessory after the fact and was sentenced to 22 months in state prison and 6 1/2 years in federal prison on other charges.

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slew of mistakes at the Washington, D.C., lab that affected such cases as the Oklahoma City bombing, the World Trade Center bombing in New York and the mail-bomb murder of federal Judge Robert Vance.

All told, 50 or more cases were identified, including the 20 in Hillsborough County.

Although the inspector general's investigation concluded that, so far, no defendants have been exonerated by the lab's errors, the Justice Department has advised prosecutors across the country to examine their cases and advise defendants about potential problems.

The Justice Department first notified the Hillsborough County State Attorney's Office of potential problems in 1998. The FBI's Laboratory Task Force, formed to ferret out errors from the faulty scientific work, sent prosecutors a list of questionable cases and the names of the FBI technicians who had worked on them.

The four technicians, Michael Malone, Roger Martz, Lynn Lasswell and Robert Webb, worked in various units including explosives, materials, and chemistry and toxicology. They have since been disciplined and transferred to other divisions or have resigned.

Malone, who worked on at least 15 of the 20 Hillsborough cases, including the three that have been reviewed, consistently failed to provide adequate documentation showing the results of his tests, neglected to do some tests, and failed to report the presence of specific pieces of evidence in some cases, according to FBI files.

In each of the three cases reviewed, all murder convictions, prosecutors confirmed that Malone's "lab work was material to the verdicts."

In one instance, the 1991 murder conviction of Felix Cruz Torres, Assistant State Attorney Dean Tsourakis wrote: "In my opinion, his [Malone's] work was the primary factor in our presentation."

Prosecutors have notified Torres and defendants in the other two reviewed cases that there may have been errors in their trials.

So far there has been no response from Torres or the other convicted defendants, Robert Andrew Milford and Brett Bogle.

The state attorney's office has been slow to investigate the 17 other convictions, which include murder, attempted murder, kidnapping and rape.

In a March 1999 letter to Assistant State Attorney Shirley Long, a prosecutor assigned to the FBI's task force suggested that prosecutors review its cases for "materiality," meaning whether the lab workers testimony and evidence was crucial to the verdicts. FBI attorney Amy Jabloner urged local prosecutors to place priority on reviewing the murder cases of serial killer Long and hired hit man Michael Mordenti.

Mordenti was charged with the 1989 murder of Thelma Royston and sentenced to death in 1991.

Jabloner's letter stated that the FBI's task force had received information that Malone's testimony in the Mordenti case "regarded inconclusive lab results." For example, one lab test indicated that hairs found on Royston's body did not match hairs taken from Mordenti.

It is not clear how Malone's work may have affected Long's case.

Cases recommended for review

Here are some of the cases that the Department of Justice has advised Hillsborough County prosecutors to review for potential problems related to flawed FBI laboratory work or inaccurate testimony given by FBI technicians.



Bernard



Grady



Mordenti



Pilgrim



Segarra

Gary Alan Bernard: Charged with first-degree murder, then convicted of lesser charge of second-degree murder by jury in 1994. Sentenced to 40 years in prison.

Brett Bogle: Convicted in February 1993 of first-degree murder in the death of his former girlfriend's sister. Sentenced to death.

Isalah Grady: Convicted in 1990 of rape and multiple counts of kidnapping, robbery and armed burglary. Sentenced to 50 years plus five life terms.

Dewayne Royce McLendon: Charged with attempted first-degree murder, involuntary sexual battery, aggravated battery and false imprisonment in 1984. Found guilty and sentenced to prison terms of 25 and 33 years.

Robert Andrew Milford: Convicted of murder in May 1992 in the stabbing death of an elderly Valrico woman. Sentenced to life without the possibility of parole for 25 years plus additional sentencing for other crimes.

James Mathew Mikrut: Convicted of first-degree murder in 1992. Sentenced to life in prison without possibility of parole for 25 years.

Michael Mordenti: Convicted in 1991 of first-degree murder and conspiracy to commit murder in the 1989 contract killing of Odessa horse farm owner Thelma Royston. Sentenced to death.

Walter Pilgrim: Convicted first-degree murder, arson and robbery in 1989. Sentenced to life in prison, plus 12 years.

Angela Reese: Convicted in 1983 of second-degree murder, kidnapping and robbery in the robbery and killing of Tampa Bay Vocational High School teacher Solomon Jackson in 1982.

Miguel Segarra and Shawn Earl Strange: Segarra was convicted in 1988 of robbery, first-degree murder and attempted first-degree murder. Sentenced to eight life sentences. Strange, his accomplice, was sentenced to 50 years in prison in a plea bargain.

Clayborn Shepard: Pleaded guilty in 1986 to two rapes. Sentenced to 12 years.

Felix Cruz Torres: The former commander of a Veterans of Foreign Wars post, Torres was convicted in October 1991 of second-degree murder of the club's bartender. Sentenced to 17 years in prison.

Betty Joan Wilson: Pleaded no contest in 1990 to conspiring to have her husband killed in 1988. Sentenced to 10 years in prison.

— Compiled by Tribune researchers
Diane Grey and Buddy Jaudon

The urgency placed on the Long and Mordenti cases by the FBI did not elicit any action from the state attorney's office.

In fact, former State Attorney Harry Lee Coe III responded that his prosecutors were overworked and could not review the remaining cases. He also said most of the prosecutors who tried the cases had left the office. He instead invited the FBI to review the cases.

Coe committed suicide in July amid allegations that he had a

gambling problem and had borrowed thousands of dollars from two of his employees.

Meanwhile, the FBI may act on Coe's invitation.

In July, Jabloner wrote Assistant State Attorney Sharon Vollrath informing her that the FBI might come in and review the cases if prosecutors didn't in the following few weeks.

"Given the severity of the 17 cases from Hillsborough County awaiting materiality reviews, the

task force will arrange for independent scientific reviews of these cases if your office does not make any materiality determinations within the next few weeks," Jabloner wrote.