



Results in Brief: Review of DoD Response to Noncompliant Crime Laboratory Analyses

What We Did

At congressional request, we reviewed misconduct allegations against Mr. Phillip R. Mills, a forensic analyst at the U.S. Army Criminal Investigation Laboratory (USACIL), to determine whether:

- suspects involved in criminal investigations in which Mills performed laboratory analyses were properly notified in accordance with requirements; and
- the FBI was properly notified about nonconforming tests, and data included in the Combined DNA Index System (CODIS) were verified or expunged, as appropriate.

We reviewed 482 criminal investigations involving 676 investigative subjects or suspects dating back approximately 20 years.

What We Found

No law, rule, or regulation specifically required the Services to notify individuals about possibly compromised DNA evidence developed in their cases. Even so:

- Army forwarded two USACIL notifications to Army trial and defense counsel alerting them to the issues and cases involved. Although stressing the notifications met all requirements, Army now plans a “courtesy letter” notification to all possibly affected individuals in Army cases.
- Navy and Air Force notified or attempted to notify all possibly affected individuals in their cases.
- Army ultimately verified or expunged Mills-related data from CODIS. However, seven DNA profiles generated from retesting

evidence found in an unsecured USACIL refrigerator years after Mills resigned were deleted only due to our continuing concerns about chain of custody and controls over the evidence involved.

Each Service developed separate, ad hoc processes for identifying individuals and completing notifications. Standard policy or guidance would have ensured individuals were treated consistently across the Services.

What We Recommend

- The DoD General Counsel develop and implement standard DoD policy or guidance to govern post-conviction notifications.
- The Army complete its planned “courtesy” notifications to at least the individuals we identified as punished in Army cases involving Mills and meriting notification.

Management Comments

The DoD General Counsel concurred with developing standards for “testing integrity” notifications. The Services indicated the recommendation should be addressed to the DoD General Counsel for Joint Service Committee (JSC) for study and action. We addressed the recommendation to DoD General Counsel, who can decide how to involve JSC and the Services. He can also decide whether adopting new American Bar Association (ABA) Rule 3.8 would further our recommendation.

Although indicating its intention to send the courtesy notifications involved in our second recommendation, the Army stressed that our report should not imply a requirement for the notifications. We ensured our wording did not imply such a requirement.