Lawyers expect appeals in Mass. crime lab case

DENISE LAVOIE - AP Legal Affairs Writer - Associated Press

Revelations by a chemist that she was in charge of quality control at a crime lab which was shut down by state police last month because of her alleged mishandling of drug samples could lead to large numbers of drug convictions being challenged, some defense attorneys say.

State police closed the lab on Aug. 30 after their investigation showed that the chemist, Annie Dookhan, failed to follow testing protocols and may have deliberately mishandled drug samples.

A tally of Dookhan's cases turned over by state police to defense attorneys and prosecutors shows she was involved in testing more than 50,000 drug samples covering approximately 34,000 defendants during her tenure at the lab, from 2003 to 2012. State police have said they don't know how many samples may have been tainted, but lawyers say they expect legal challenges because of the scandal.

A transcript obtained by The Associated Press of Dookhan's sworn testimony in a 2010 Suffolk County trial shows Dookhan testified that she ran "quality control/quality assurance" within the lab.

During her testimony in the criminal case against Larry Blue, a Boston man charged with cocaine trafficking and weapons offenses, Dookhan was asked by a prosecutor if she had any "special responsibilities personally with regard to all the usual lab work."

"I run the quality control/quality assurance within the drug lab," she said, according to the transcript.

Among her responsibilities, she said, was "to make sure the balances are working appropriately, the machines are working appropriately, all the instruments are followed by the policies and procedures," and other duties.

Defense lawyers said Dookhan's testimony raises concern about whether even more than the 50,000 samples she tested were properly handled.

"If she oversaw quality control or quality assurance, if there are any problems with those controls, it could affect samples that were tested by other chemists," said Anne Goldbach, forensic services director for the state's public defender agency.

David Kibbe, a spokesman for the Department of Public Health, which until recently ran the lab, said he could not immediately confirm whether Dookhan accurately described her responsibilities there. David Procopio, a spokesman for state police, did not immediately respond to messages seeking comment.

Rosemary Scapicchio, a Boston defense attorney who has offered to represent some defendants who may challenge their arrests or convictions based on Dookhan's work, said she is concerned about how the entire lab was run.

"If she is the person who is monitoring quality control the way she has testified under oath, then there's a much bigger problem in that lab than just Annie Dookhan," she said.

The lab was run by the state Department of Public Health until July 1, when state police took over as part of a budget directive.

Dookhan has not responded to repeated requests for comment. A message left at her home in Franklin was not immediately returned Wednesday.

In her testimony in the 2010 trial, Dookhan said she was one of four chemists trained to perform confirmatory tests on drug samples. Those tests are done after an initial preliminary test.

Blue was convicted of trafficking between 14 and 28 grams of cocaine, a drug violation in a school zone, possession of marijuana and weapons charges. He was sentenced to 10 years and one day in prison.

His lawyer, Patty DeJuneas, said she has already filed an appeal in his case based largely on a search warrant. She said Dookhan's involvement in the drug testing in his case may be challenged later, depending on the outcome of the appeal.

The state's district attorneys have been pushing state police to turn over more information about exactly what Dookhan did and what cases may have been affected by the violations.

Worcester District Attorney Joseph Early Jr. said a group of prosecutors met separately Wednesday with Gov. Deval Patrick and state Attorney General Martha Coakley, whose office is conducting an investigation into possible criminal wrongdoing.

Early said the prosecutors received more information about the protocol violations, but he would not discuss specifics, citing the ongoing investigations.

"We were given a summary of information; I can't speak to more than that," Early said. "We are going to let them do their investigation."

Patrick said wants to establish a centralized "war room" to reconcile database and spreadsheet information regarding mishandled cases by the end of the week.

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