

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

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TCP Applauds DOJ for Review of Flawed Hair Evidence *Sloan: Greater Transparency, Broader Review Still Needed*

WASHINGTON, D.C. -- A bipartisan constitutional watchdog group today commended the Department of Justice for undertaking a review of thousands of criminal cases involving flawed forensic evidence, and it renewed its call for greater transparency and more disclosure.

"This is clearly a major step in the right direction," said Virginia Sloan, president of The Constitution Project, noting that in April the organization had [criticized the Department's plans](#) to examine only cases involving hair evidence in the District of Columbia, and instead had [urged the Attorney General](#) to undertake a review of all such cases nationwide.

"I commend the Department for expanding the scope of the review as we requested, and for involving outside experts, including criminal defense attorneys, in the process," she said.

The Department of Justice (DOJ) [announced yesterday](#) that it was initiating a review of all federal and local cases across the country involving hair and fiber evidence examined by the FBI lab since at least 1985. According to reports in The Washington Post, the FBI has known for years that flawed evidence or testimony may have resulted in the [conviction of innocent people](#), but failed to conduct a comprehensive investigation of those cases, or to alert defendants and their lawyers about the potential problems.

However, details remain unclear about how DOJ will manage the new review. Sloan said she would urge the Attorney General to make public the process by which the DOJ and FBI would identify cases subject to review and to establish a uniform approach to immediately notifying defendants and their lawyers. She said past reviews have been "shrouded in secrecy."

"Ultimately, it is the Department's responsibility to notify each and every defendant, along with their defense counsel, whose case may have been affected by flawed evidence or tainted testimony that a review is underway, the reasons for and parameters of the review, and when it expects to have results," she said.

According to Sloan, the review should not stop with potentially flawed hair and fiber evidence. She said the DOJ should establish a process to identify and review all cases in which the prosecution offered evidence examined by the FBI lab based on forensic techniques that have since been called into question, such as bite mark and tool mark analysis, to determine if any other cases warrant similar review.

Sloan also called on the Attorney General to support congressional efforts to address the concerns raised in a [2009 National Academy of Sciences report](#) about the integrity and reliability of various types of forensic evidence still in use.

"[Reforms are needed](#) to ensure that only forensic evidence based on peer-reviewed research and performed by trained and fully competent scientists working in accredited laboratories is admitted in criminal trials," she said.

[About The Constitution Project](#)

Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project (TCP) brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time. TCP seeks to reform the nation's broken criminal justice system and to strengthen the rule of law through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.



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