

21,587 People Exonerated In Massachusetts Due To Fraudulent Crime Lab Testing

By Hans Sherrer

The Massachusetts Supreme Judicial Court [vacated](#) 21,587 drug related convictions on April 19, 2017. The Court also ordered dismissal of the cases. It was by far the most exonerations on a single day in United States history.

The prosecution of all the cases relied on a “drug certificate” signed by Annie Dookhan, a chemist at the Hinton State Laboratory in Boston, Massachusetts. It is now known Dookhan’s certification an illegal drug was involved in those cases was unreliable evidence: She engaged in extensive criminal activity and professional misconduct in the handling and processing of evidence in the crime lab for many years before her sabotage was discovered in June 2011.

The 21,587 cases were in seven Massachusetts counties: Suffolk; Essex; Plymouth; Bristol; Norfolk; Middlesex; and, Cape & Islands.

Dookhan was 26 when she was hired in 2003 as a Chemist I at the Hinton forensic drug laboratory. She was promoted to Chemist II in 2005. Her primary job was to test evidence samples in criminal cases to determine if it was an illegal substance. From the time she began work her productivity was the highest in the lab.

After Dookhan had worked in the lab for eight years, an evidence officer discovered in June 2011 that she had not properly signed out 90 drug samples. Several days later three lab supervisors met to discuss that the evidence log book didn’t show the drug samples had been signed out to her ... or anyone else. The next day Dookhan was confronted about the evidence log, and a new situation: In the hours since the three supervisors had met, the initials of an evidence officer had been inserted in the log book next to the drug samples. The evidence officer denied initialing the log book and Dookhan denied knowledge of the discrepancy.

The lab initiated an internal investigation. Dookhan admitted she had forged the evidence officer’s initials and post-dated entries in the log book. She was suspended from performing lab work on new cases. However, she remained on the lab’s payroll,



Annie Dookhan after her arrest in Sept. 2012 (David L. Ryan, Boston Globe, 2012)

and her superiors allowed her to testify in court about cases she was involved in up to the time of her suspension. Prosecutors and defendants in those cases were not informed Dookhan had been suspended from performing laboratory tests because of her dishonesty.

In February 2012 Dookhan ceased testifying in court when the district attorneys in the seven counties that used the services of the Hinton drug lab were notified Dookhan had been suspended eight months earlier. The DA’s could no longer subpoena her as an expert witness because they would be legally obligated to provide a defendant’s lawyer with the evidence of her dishonest conduct. She was placed on paid administrative leave, and resigned a month later in March 2012.

As a cost-cutting move, in July 2012 control of the Hinton drug lab was transferred from the Massachusetts Department of Public Health to the Office of Public Safety and Security. The Massachusetts State Police initiated an investigation into Dookhan’s practices before she was suspended from performing lab work.

The State Police discovered during their interview of Dookhan on August 28, 2012, something she had not told her lab supervisors: she admitted “dry labbing” evidence samples. “Dry labbing” describes a technician visually identifying samples without performing a chemical test. Dookhan also admitted that when she had evidence samples from different cases that appeared similar, she would select a sample from a case for testing to verify it was the drug she believed it was. She then assumed all the untested samples were the same drug -- and reported on the “drug certificate” for those cases the sample had tested positive for that drug. She also admitted to fabricating evidence in drug cases by adding cocaine to samples that didn’t have cocaine present.

Furthermore, Dookhan admitted to the State Police that she had been engaging in insubstantial lab practices for a number of years. That she had been doing so from around the time she began working at the lab was suggested by the fact that starting [during her first year](#) of employment, “She reported test results on samples at rates consistently much

higher than any other chemist in the lab.”

The State Police discovered that Dookhan regularly reported testing over 500 samples per month. That was five times the typical workload of a laboratory drug chemist. Yet, Dookhan’s supervisors and colleagues told the State Patrol they never saw her using a microscope, and she frequently misidentified samples. The disregard of the numerous red flags there was something amiss with Dookhan’s work suggested a “See no evil, speak no evil” culture in the drug lab. All was OK as long as she generated results that made the lab look productive and assisted prosecutors secure convictions.

The discovery by State Police investigators that Dookhan took the shortcut of failing to conduct any test in innumerable cases in which she reported a positive drug test result, explained how she was able to be the most productive drug technician in the crime lab for eight years.

The State Police investigation also discovered that when she testified during at least 14 criminal trials, Dookhan burned her expert credentials by lying that she had a Master’s degree in Chemistry from the University of Massachusetts at Boston (UMass). She not only didn’t have a Master’s degree in Chemistry, but she not had never enrolled in any master’s level classes at UMass. Dookhan’s perjury about her education was relied on by judges to admit her as an expert witness, and it established the veracity of the drug certificate of her testing admitted into evidence. It was found that she also falsely stated in her resume that she had a UMass Master’s degree in Chemistry. The Hinton lab didn’t check Dookhan’s educational qualifications when she was hired as a chemist in 2003.

Dookhan’s dishonest embellishment of her qualifications and experience went beyond falsely claiming she had a Masters degree in Chemistry: She fabricated job titles for herself that included she had been a “special agent of operations” for the FBI and other federal agencies, and that she had been an “on-call terrorism supervisor.”

The *Boston Globe* reported that Norfolk County prosecutors ignored multiple warnings that Dookhan was a chronic liar. Almost two years before she was suspended her husband, Surrendranath Dookhan, sent multiple text messages warning about her dishonesty. One of the [text messages stated](#): “This is Annie’s Husband do not believe her, she’s a liar, she’s always lying.” (Annie

Dookhan cont. on page 4

Dookhan cont. from page 3

Sadiyya Khan adopted her husband's last name when they married in 2004.)

Disregarding the warnings by Dookhan's husband that she was a pathological liar was emblematic of the professional affection prosecutors had for her: They loved her because she was so reliable in providing "scientific" evidence to support a conviction. Prosecutors were so happy with her assistance that they congratulated her in emails and took her out for cocktails as a reward for her work. One district attorney [called Dookhan](#) a member of the prosecutor's "dream team."

Dookhan even provided "fake" evidence to order.

The *Boston Globe* [reported that in](#) May 2010 Norfolk Assistant District Attorney George Papachristos "told her he needed a marijuana sample to weigh at least 50 pounds so that he could charge the owners with drug trafficking. "Any help would be greatly appreciated!" he wrote, punctuating each sentence with a long string of exclamation points. "Thank you!" Two hours later, Dookhan responded: "OK . . . definitely Trafficking, over 80 lbs." Papachristos thanked her profusely." Papachristos resigned in October 2012 after his very friendly relationship with Dookhan was reported by the *Boston Globe*.

The Hinton lab's quality controls were so deficient at detecting fraud, that an audit of Dookhan's work in 2010 failed to find anything out of the ordinary, except that she was exceptionally efficient at processing case evidence.

Dookhan was arrested on September 28, 2012. She charged with two counts of obstruction of justice and one count of falsifying her academic records. She was released on \$10,000 bail.

After her arrest Dookhan was indicted for crimes that included: evidence tampering, obstruction of justice, perjury, and falsely claiming to hold a graduate degree.

Dookhan agreed to plead guilty to 27 counts of tampering with evidence in exchange for the dropping of all other charges. She didn't state why she acted as she did, but some of her communications suggested she didn't like drug users and dealers and wanted them off the street. She was apparently oblivious to the harm her crusade was causing innocent people to suffer.

On November 22, 2013 she was sentenced to three to five years imprisonment and two years probation by Judge Carol S. Ball in Suffolk Superior Court. [Ball said](#) in sentencing Dookhan, "Innocent persons were incarcerated, guilty persons have been released to further endanger the public, millions and millions of public dollars are being expended to deal with the chaos Ms. Dookhan created, and the integrity of the criminal justice system has been shaken to the core." Dookhan's bail was revoked and she was taken into custody to begin serving her sentence.

Dookhan was paroled in April 2016 after less than 2-1/2 years in prison.

As Judge Ball had alluded to, there was significant legal fallout from Dookhan's conduct.

More than 21,000 defendants had been convicted based on the prosecution's reliance on the evidence of a Dookhan "drug certificate."

A number of defendants filed a petition to withdraw their guilty plea when the prosecution's case was primarily based on the evidence of a Dookhan "drug certificate." They pled guilty under the pressure of Dookhan's purported incriminating evidence that made their acquittal after a trial nearly impossible. [They asserted](#) their guilty plea "was involuntarily induced by government misconduct that since has been discovered."

In 2014 the Massachusetts Supreme Judicial Court (SJC) [ruled that](#) "where the defendant proffers a drug certificate from the defendant's case signed by Dookhan on the line labeled "Assistant Analyst," the defendant is entitled to a conclusive presumption that egregious government misconduct occurred in the defendant's case."

The SJC had to then grapple with the issue of whether the tens of thousands of affected defendants would be dealt with on a case by case basis to determine if a defendant was prejudiced, or if the court would issue a global ruling affecting all of the defendants.

The district attorneys of the seven counties had mailed a written notice to defendants whose case Dookhan's had worked on. The notice explained they could explore with a lawyer the possibility of withdrawing their plea or moving for a new trial based on her misconduct.

The Dookhan court cases had effectively

been consolidated by the SJC into *Kevin Bridgeman & Others v. District Attorney for the Suffolk District & Others*, No. SJ-2014-0005 (Mass. Supreme Judicial Ct.).

In a January 2017 ruling in the *Bridgeman* case [the SJC reviewed](#) the effectiveness of the notice sent by the district attorneys. The Court determined "the notice sent by the district attorneys was wholly inadequate to provide the relevant Dookhan defendants with the information necessary to knowingly and voluntarily decide whether they should explore with counsel the possibility of withdrawing their plea or moving for a new trial."

However, the Court rejected the defendant's remedy of a global order dismissing all Dookhan related cases. Instead the court ordered that the district attorneys file three letters with the Clerk of the Supreme Judicial Court within 90 days. The second of those letters [was to identify](#) all cases in their jurisdiction affected by Dookhan that "the District Attorney would move to vacate and dismiss with prejudice."

Those letters were filed by April 18, 2017. They identified a total of 21,587 convictions that the district attorneys in the seven counties thought warranted being vacated and the case dismissed. That was a little more than half of the more than 40,300 cases Dookhan "worked" on during her eight years as a chemist in the Hinton laboratory.

On April 19, 2017 Supreme Judicial Court Justice Frank M. Gaziano issued a Declaratory Judgment Order vacating the convictions in those 21,587 cases, and ordering their dismissal with prejudice. [The Order stated:](#)

"... it is ORDERED that the convictions of G. L. c. 94C offenses that have been identified by the district attorneys in their respective second letters, as reproduced in Attachment A to this order, be and hereby are VACATED AND DISMISSED WITH PREJUDICE, and any outstanding warrants associated with those convictions are recalled."

The Order effectively acquitted those 21,587 defendants because their cases can never be re-prosecuted.

The April 19 Order attempted to shield the identity of the 21,587 exonerated people by impounding from public disclosure the district attorney's letters identifying them. However, only a day after the Order was

Dookhan cont. on page 5

Dookhan cont. from page 4

issued, a letter was submitted to Justice Gaziano by Attorney Miriam Conrad [that stated](#):

“I am the Federal Public Defender for the Districts of Massachusetts, New Hampshire, and Rhode Island. My office represents indigent defendants charged with crimes in federal court. I write to request a copy of the list of defendants against whom charges were ordered dismissed by the Court on April 19, 2017, as well as any other lists the Court deems appropriate for my office to receive.”

Justice Gaziano has not yet responded to Conrad’s request.

No information has been publicly disclosed about how many years the 21,587 defendants cumulatively spent wrongly imprisoned and/or on probation or parole.

[Click here to read the SJC’s January 18, 2017 ruling in Kevin Bridgeman & Others v. District Attorney for the Suffolk District & Others](#), 476 Mass. 298 (1-18-2017)

Investigation of Hinton Lab by the Massachusetts OIG

On November 5, 2012 Governor Patrick requested that the Massachusetts Office of the Inspector General (“OIG”) investigate the Hinton Lab, that he had ordered shut down from drug testing on August 30, 2012. The OIG’s report was released on March 4, 2014. [Key conclusions](#) were:

- Dookhan was the sole bad actor at the Drug Lab.
- Management failures of lab directors contributed to Dookhan’s ability to commit her acts of malfeasance.
- Department of Public Health (“DPH”) Commissioner John Auerbach and his staff failed to respond appropriately to the report of Dookhan’s breach of protocol.
- The Drug Lab lacked formal and uniform protocols with respect to many of its basic operations, including training, chain of custody and testing methods.
- The training of chemists at the Drug Lab was wholly inadequate.
- The Drug Lab failed to provide potentially exculpatory evidence to the parties in criminal cases by not disclosing information about additional, inconsistent testing results.
- The Drug Lab failed to uniformly and consistently use a valid statistical ap-

proach to estimate the weight of drugs in certain drug trafficking cases.

- The quality control system in place at the Drug Lab was ineffective in detecting malfeasance, incompetence and inaccurate results.
- The security at the Drug Lab was insufficient in that management failed to appreciate the vulnerability of the drug safe, and did not do enough to protect its contents.
- There were no mechanisms in place to document discrepancies in chain-of-custody protocols or inconsistent testing results.

The report made a number of recommendations that it suggested could improve the quality control of drug handling and testing.

[Click here to read the OIG’s March 4, 2014 report](#) on the Investigation of the Drug Laboratory at the William A. Hinton State Laboratory Institute 2002–2012.

The Massachusetts legislature has appropriated \$30 million for expenses related to the Dookhan scandal. However, wrongful imprisonment compensation lawsuits could significantly increase that amount.

Sources:

[Kevin Bridgeman & Others v. District Attorney for the Suffolk District & Others](#), 476 Mass. 298 (1-18-2017)

[Supreme Judicial Court Dismisses](#) Over 21,000 Cases Affected by the Breach at the Hinton State Laboratory Institute, Press Release, Massachusetts Court System, April 20, 2017

[Kevin Bridgeman et al v. Dist. Attorney for the Suffolk Dist. et al](#), No. sj-2017-m0008 (Mass. Supreme Judicial Court) - Special-Master-Report

[Bridgeman v. Dist. Att. for the Suffolk Dist.](#), 471 Mass. 465, 30 N.E.3d 806 (Mass. Supreme Judicial Ct., 5-18-2015)

[Kevin Bridgeman & Others v. District Attorney for the Suffolk District & Others](#), No. SJ-2014-0005 (Mass. Supreme Judicial Ct.) Docket (Entry 204: Declaratory Judgment ordering dismissal of 21,587 cases; and, Entry 208: Letter from Federal Public Defender Atty. Miriam Conrad requesting district attorneys letters identifying the 21,587 people whose convictions were vacated and their cases dismissed.)

[“Bail set at \\$10,000 after arraignment](#) of Annie Dookhan, chemist in state drug lab scandal,” *The Boston Globe*, September 28, 2012.

[Annie Dookhan, former state chemist](#) who mishandled drug evidence, sentenced to 3 to 5 years in prison, *Boston Globe*, November 22, 2013

[Commonwealth v. Scott](#), 467 Mass. 336 (Mass. Supreme Judicial Court 2014)

[Investigation of the Drug Laboratory](#) at the William A. Hinton State Laboratory Institute 2002–2012, Massachusetts’ Office of the Inspector General, March 4, 2014

[Husband of Former Mass. Chemist](#) Reportedly Tried to Warn Prosecutor, *NECN*, Sept. 28, 2012

[Corrupt crime lab chemist](#) faces light sentence after ruining countless lives with falsified evidence, *PoliceStateUSA.com*, November 25, 2013

Annie Dookhan’s Eight Year Rampage Of Faking Scientific Evidence To Convict Innocent People Was Aided By The Legal System

Justice Denied Editorial

Annie Dookhan’s saga of sabotaging more than twenty-one thousand criminal cases in Massachusetts during the eight years she “worked” as a chemist in the Hinton State Laboratory is chronicled in [Justice Denied’s article](#), “21,587 People Exonerated In Massachusetts Due To Fraudulent Crime Lab Testing” (May 6, 2017).

From her hiring in 2003 to her suspension in June 2011, Dookhan provided critical prosecution evidence by falsely certifying a suspected substance was an illegal drug. She was praised for her productivity and assistance to prosecutors during the years she was fabricating evidence by taking short-cuts and faking tests.

21,587 convictions in seven Massachusetts counties that depended on Dookhan’s “drug certification” [were vacated](#) and the charges dismissed, on April 19, 2017 by the Massachusetts Supreme Judicial Court.

Justice Denied’s article is the only known reporting about the Dookhan saga that makes the obvious observation she did not act alone: she was a cog in the law enforcement machine who was directly and indirectly assisted in her nefarious and illegal activities by hundreds, and possibly more than a thousand people. The success of her almost decade long subterfuge required willful blindness by a very large number of people intimately involved in Massachusetts’ legal system: judges; prosecutors; defense lawyers; lab supervisors and technicians; and others.

It was only someone outside the legal system -- her husband -- who tried to alert authorities about Dookhan’s dishonesty. However, his whistleblower warnings to the Norfolk County DA were ignored.

Given how deeply imbedded she was in the legal system, it isn’t surprising that Dookhan’s criminal career was only accidentally derailed: A lone person in the Hin-

Dookhan Editorial on p. 6

