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Defense Lawyer Pushes to Broaden FBI Evidence-Tampering Probe

Zoe Tillman, Legal Times

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An investigation into alleged evidence tampering by an FBI agent is raising questions about the reliability of the agency's evidence protocols, according to a criminal defense lawyer involved in one of the cases touched by the scandal.

In [court papers filed on Monday](#), lawyer **A. Eduardo Balarezo** asked a federal judge in Washington to order prosecutors to turn over information about the FBI's policies and procedures for handling evidence. Limiting the investigation to the individual agent "ignores that very real possibility of a systemic problem in the manner in which the FBI maintains evidence in any given case," **Balarezo** wrote.

Federal prosecutors have already dismissed criminal cases against more than two dozen defendants in cases that involved Matthew Lowry, the FBI agent under investigation for allegedly tampering with drug and firearms evidence. Officials have said in court that they expect more cases to be implicated as the investigation continues.

A federal prosecutor in Philadelphia involved in the Lowry probe—the Washington office is recused because of its ties to Lowry—said during a court hearing on Monday afternoon that the government hoped to finish the investigation by the end of December.

Prosecutors told U.S. District Judge Emmet Sullivan during hearings last month that no other individual besides Lowry was under investigation. **Balarezo** and other defense lawyers have questioned the scope of the investigation, arguing

that any shortcomings in how the FBI handled evidence could affect cases beyond those involving Lowry.

Balarezo, in requesting more information, wrote that the government had already disclosed that there were no video cameras in the evidence control center for the FBI's Washington field office or in the evidence storage room for a regional task force. That disclosure suggested a lack of "strict evidence handling or securing procedures," **Balarezo** wrote.

If the FBI wasn't properly securing evidence, **Balarezo** said, that was evidence favorable to the defense that prosecutors were required to turn over.

"Obviously, if Lowry was able to avoid logging seized evidence, remove evidence for extended periods of time or to otherwise mishandle evidence with impunity, it stands to reason that the strict chain-of-custody claimed by the government in most cases is a sham," he wrote.

Sullivan said during the hearing on Monday afternoon that he wouldn't rule on **Balarezo's** request until the government had an opportunity to respond.

Sullivan has been [sensitive to the government's disclosure requirements](#). In recent weeks, the judge pressed prosecutors about their responsibility to turn over all favorable evidence to the defense. He also ordered the government to show him information they didn't believe they needed to turn over so that he could review it.

The U.S. Attorney's Office for the Eastern District of Pennsylvania is leading the Lowry investigation. The prosecutor in charge of the probe, Peter Schenck, told Sullivan at a hearing last month that his office was turning over all information it uncovered to the D.C. office, which was then responsible for deciding what to disclose to defense lawyers.

In recent weeks, prosecutors have turned over new information to defense lawyers related to the Lowry investigation under a protective order that keeps the materials sealed. On Monday, Sullivan in large part denied a request by **Balarezo** to unseal that information.

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