U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535-0001

February 26, 2016

Dear Governor :

I need your help on an important criminal justice issue.

As you may know, the FBI and the Department of Justice have been reviewing reports and testimony about microscopic hair comparison in cases before December 31, 1999. After that date, our lab starting using mitochondrial DNA in hair comparisons. But for cases from the 1990s and earlier, we have discovered problems with the way our examiners talked about the nature of hair comparisons.

In many cases, we have discovered that the examiners made statements that went beyond the limits of science in ways that put more weight on a hair comparison than scientifically appropriate. Hair is not like fingerprints, because there aren't studies that show how many people have identical-looking hair fibers. Especially before we started using mitochondrial DNA, appropriate testimony should have made the limits of hair comparison clear. Unfortunately, in a large number of cases, our examiners made statements that went too far in explaining the significance of a hair comparison and could have misled a jury or judge. In fact, in several cases in which microscopic hair comparison evidence was introduced, defendants were later exonerated by DNA after being convicted. We want to make sure there aren't other innocent people in jail based on our work.

To ensure justice is done, we have been working to get transcripts from prosecutors in cases where an FBI hair examiner testified. We have gotten good cooperation, because prosecutors care about getting it right. But in some cases in your state, folks just aren't getting back to us and we need your help to obtain the relevant transcripts. A list of the offices and cases where we need assistance is attached. I have also attached a sample letter you might use to reach out to the prosecutors.

In addition, we want to make sure our approach in the 1990s and before didn't introduce error into your state and local lab work. Over the last 40 years, the FBI offered introductory training on hair comparison to state and local labs. The FBI has notified the labs which sent employees to this training. I encourage you to ask your state and local labs to ensure their examiners were staying within the bounds of science and, if they weren't, to take appropriate corrective action.

Like you, we care deeply about justice, which is both about obtaining convictions and making sure that mistakes are fixed. I am very sorry the FBI put you in this position and am grateful for your help.

Sincerely yours,

James B. Comey
Director

Enclosures