



**OFFICE OF THE PROSECUTING ATTORNEY  
FAIRFIELD COUNTY, OHIO**

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**PROSECUTOR**  
David L. Landefeld

August 5, 2010

Governor Ted Strickland  
Governor's Office  
Riffe Center, 30<sup>th</sup> Floor  
77 South High Street  
Columbus, Ohio 43215-6108

Attorney General Richard Cordray  
Attorney General's Office  
30 East Broad Street, 15<sup>th</sup> Floor  
Columbus, Ohio 43215

Re: Robert Blackburn

Dear Governor Strickland and Attorney General Cordray:

Robert Blackburn brutally raped his eight year old daughter vaginally and orally on January 22, 1991. Our criminal justice system forced this young victim to testify against her own father when she was ten years old on January 27, 1993, and she bravely did. Among the numerous items of evidence that investigators collected in this case were a towel that the victim told them Robert Blackburn had used to wipe her stomach after he ejaculated, a rape kit, and a pair of underwear that they believed she wore before and after the assaults.

The towel had semen that matched the DNA profile of Robert Blackburn. The underwear had semen with degraded DNA that could not be matched. The pieces of evidence that you are urging this office to agree to be further tested are, as I understand it, the underwear and the rape kit.

You should be aware that a Fairfield County jury convicted Robert Blackburn of rape, and Judge Joseph T. Clark sentenced him to a term of ten to twenty-five years on February 1, 1993. The Fifth District Court of Appeals unanimously upheld this conviction. The Ohio Supreme Court refused to consider a further appeal of this conviction. Robert Blackburn served this prison sentence until September 1, 2005, was placed on parole, and finally released from parole supervision on December 27, 2007.

You should also be aware that attorneys for Robert Blackburn have petitioned the Fairfield County Court of Common Pleas to order post-conviction DNA testing of evidence on at least three occasions. Two separate Fairfield County Common Pleas judges have refused to order this testing, and their rulings have been upheld unanimously by the Fifth District Court of Appeals. Again, the Ohio Supreme Court refused to consider a further appeal. Their reasoning was, in essence, that Robert Blackburn's own daughter knew the identity of her attacker, the evidence presented at the trial against him was overwhelming, and the results of any additional DNA testing would not conclusively exonerate him from the crime of rape.

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Knowing this, you can imagine my surprise and disappointment when I received your letter. I am particularly disappointed that another elected official would not contact me regarding this matter prior to making a public statement on August 3. You state in your letter that you "seek finality". I would respectfully submit that any unbiased individual who thoroughly reviewed this case would consider it both closed and final.

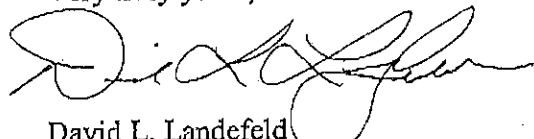
Further, you both acknowledge that as the prosecuting attorney, I have no legal obligation to make any evidence available for the DNA testing you propose, but you seemingly believe that this office should voluntarily make evidence available for testing as a matter of public policy. I am frankly at a loss to understand to what public policy you are referring.

I believe a good public policy would be that a sitting Governor and Attorney General do not violate the "separation of powers" doctrine by attempting to encroach on the power of the judiciary regarding issues that are clearly and rightly within the power of the judiciary to decide. I also believe that it would be a good public policy for a Governor and Attorney General to honor Article I, Section 10a of the Ohio Constitution that affords victims of criminal offenses fairness, dignity, and respect in the criminal justice process. To my knowledge, neither of your offices has made any attempt to obtain any input from the victim of Robert Blackburn regarding this proposed DNA testing.

I am unaware of any prosecuting attorney in Ohio who opposes post-conviction DNA testing in cases where there is a genuine and real potential to clarify the guilt, innocence or identity of a person convicted of a crime. Your request to my office regarding Robert Blackburn's case would not clarify his guilt, innocence or the identity of the person who raped his daughter in January, 1991.

Governor Strickland, I am mindful of the fact that you have virtually unfettered pardon and clemency power in criminal cases. If you believe, after your and Attorney General Cordray's careful review of the case of the *State of Ohio vs. Robert Blackburn*, that the criminal justice system has failed this convicted rapist, then you should use your authority to correct any wrongdoings.

Very truly yours,



David L. Landefeld  
Fairfield County Prosecuting Attorney