



RICHARD
CORDRAY



TED STRICKLAND
GOVERNOR
STATE OF OHIO

August 3, 2010

Hon. David L. Landefeld
Fairfield County Prosecuting Attorney
201 S. Broad Street, Fourth Floor
Lancaster, OH 43130

Re: Robert Blackburn

Dear Prosecutor Landefeld:

As you may be aware, attorneys for Mr. Robert Blackburn have sought post-conviction DNA testing of evidence relating to Mr. Blackburn's conviction of rape on January 29, 1993. They have also contacted our offices regarding their request for such testing.

We write today because we believe that when DNA testing has the genuine and real potential to clarify the guilt, innocence or identity of a person suspected or convicted of a crime, significant efforts should be made to accomplish that testing. Like you, we seek finality – our best certainty that the guilty are convicted and the innocent are set free – as a paramount goal of our criminal justice system.

While we acknowledge that Mr. Blackburn is no longer incarcerated we do not believe this should preclude the testing of the requested evidence. Individuals who are no longer incarcerated retain an interest in obtaining greater certainty regarding their case as the effects of a conviction surpass the time of incarceration.

While we understand that Mr. Blackburn was lawfully convicted, the information that was provided to us and which we have reviewed in connection with this request suggests that newly available DNA testing technology, which was not available at the time of trial, may add greater certainty to the facts underlying this conviction. We also believe that the use of current DNA technology can help increase public confidence in the results obtained by our criminal justice system.

This request is in no way meant to suggest that you have any legal obligation to make the requested evidence available for testing – that's a question for the courts. Ours is a request for you to exercise the discretion that you have to assist in voluntarily making such evidence available for testing as a matter of public policy and to further utilize the advances in DNA testing technology.

Mr. Blackburn's attorneys have made this request as part of a larger review of 313 cases in which an Ohio inmate's application for post-conviction DNA testing was denied prior to January 2008. In 30 of these 313 cases, Mr. Blackburn's attorneys and their colleagues contended that the continued pursuit of testing was merited. Testing has since been granted in 18 of those 30 cases either through court order or agreement of the county prosecutor.

In this particular case, attorneys for Mr. Blackburn seek testing of underwear and a rape kit collected from the victim. It is our understanding that this evidence was too degraded for testing at the time of trial but that new DNA technology would allow for a further analysis of the DNA profile. We understand that the court has consistently denied requests for testing by Mr. Blackburn in that the previous law in effect at the time of his application did not specifically allow for testing when an individual is on parole. In our judgment, and in light of the recent passage of S.B. 77 which specifically changed the Revised Code to allow parolees and others with continuing legal obligations to apply for such testing, the fact that Mr. Blackburn is no longer incarcerated should not preclude DNA testing.

We understand that this evidence still exists and can be tested. If your office does not have actual custody of this evidence, we ask that you please help identify the local or county official who does possess the evidence and work with them to make it available. The Attorney General's office will assist the custodian with all efforts necessary to facilitate the requested testing, including transporting the evidence with a proper chain of custody through the Ohio Bureau of Criminal Identification and Investigation. This will be accomplished at no cost to your county, the State or Ohio taxpayers as Mr. Blackburn's attorneys have arranged for the evidence to be tested free of charge at DNA Diagnostics Lab in Fairfield.

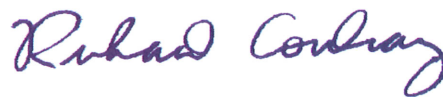
We have tremendous respect and gratitude for the work that you and your colleagues do each day to keep Ohio's communities safe by putting criminals behind bars. Recent advances in DNA testing technology provide law enforcement an additional tool to solve crimes and achieve greater certainty in our criminal justice system. We understand that forensic evidence may not be available in every case, and even in cases where it is available may not be dispositive. It is our understanding the evidence which testing is being requested of may in fact be dispositive. We make this request of you only to promote, as best and fairly as we can, confidence and certainty in the administration of justice.

Thank you very much for your attention to this matter. Please contact Kent Markus, Counselor to the Governor at 614-728-7355, or Chris Glaros, First Assistant Attorney General at 614-728-2318, should you have any questions, need additional information, and to make arrangements for the testing. And, as always, please do not hesitate to contact either of us if we can ever be of assistance to you.

Sincerely,



Ted Strickland
Governor



Richard Cordray
Attorney General