



OHIO PROSECUTING ATTORNEYS ASSOCIATION

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Executive Director

August 5, 2010

Governor Ted Strickland
Ohio Statehouse
Columbus, Ohio 43215

Attorney General Richard Cordray
30 East Broad Street, 17th Floor
Columbus, Ohio 43215

Dear Governor Strickland and Attorney General Cordray:

The Ohio Prosecuting Attorneys Association is at a loss in trying to understand the motivation behind seven form letters sent by and received from your offices. We are deeply dismayed and surprised considering both of you have been very supportive of prosecutors and the proper functioning of the judicial process in the past.

On Tuesday, August 3, both of you urged seven prosecutors to agree to DNA testing in seven cases. These are serious cases, including murder and rape, where defendants were convicted in jury trials. State and Federal appeals courts have upheld the convictions, in some cases repeatedly. Most of the offenses occurred more than 15 years ago. One defendant is deceased. Three have already served their time, and three remain in prison. One is on death row.

Despite what we have viewed as effective working relations between our association and your offices, frankly, we are stunned that you would take on these cases, so critical to victims of crimes, based upon discussions with criminal defense attorneys rather than the prosecutors. The action you have taken unfortunately gives the impression that you have taken sides, and you have done so with only the convicted criminals' side of the arguments.

You acknowledge that prosecutors have no legal obligation to make the evidence available for DNA testing, but argue that they should voluntarily agree to such testing as a matter of public policy and to finally establish guilt or innocence. You ignore the fact that in each of these cases the courts have previously denied DNA testing, in some cases repeatedly. The issue is whether a test would establish guilt or innocence. The courts have denied each of their applications because they concluded that the results would not definitively establish guilt or innocence. This follows Ohio law.

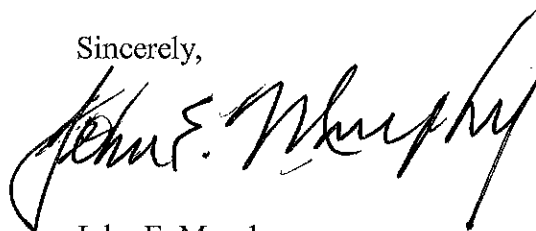
You argue that prosecutors should simply go ahead and agree to the test and be done with it. You incorrectly imply that if a test comes back inconclusive, that will be the end of it. Unfortunately, inconclusive results have been trumpeted as tantamount to exoneration. New claims will be filed based on the test, and litigation at public expense will continue. This will be at an additional cost of a further lack of confidence in a justice system that will seem to be incapable of coming to a conclusion. Finality is an often overlooked or ignored objective of the law, but it is critical, not only to the integrity of the law, but also for the victims and witnesses to get on with their lives.

Perhaps you have been misinformed or do not have a complete appreciation of the process. But we are very disappointed that you would discuss the state's cases with defense counsel and the Innocence Project without the knowledge or participation of the prosecuting attorneys responsible for the cases, and then, with very little notice or discussion, send a letter to the prosecutors, with a copy to the press, about how you think the prosecutors should do their duty. That is not how we view the proper role of the governor and attorney general in the criminal justice process.

The prosecuting attorneys and the courts in these cases have followed the law and continue to do so. We take justice very seriously.

Should you continue to feel that your requests were appropriate, we ask that these matters be addressed, case by case, with the prosecutors involved rather than by form letter, and that you share with the prosecutors the new or additional evidence or information you were provided from each defendant's attorney that led you to sending your letters.

Sincerely,

A handwritten signature in black ink that reads "John E. Murphy". The signature is written in a cursive style with a large, sweeping "M" and "P".

John E. Murphy
Executive Director