

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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<http://oversight.house.gov>

May 12, 2015

The Honorable James Comey  
Director  
Federal Bureau of Investigation  
601 4th Street NW  
Washington, D.C. 20534

Dear Director Comey:

We are writing to express our grave concerns about recent revelations that the Federal Bureau of Investigation provided inaccurate testimony and erroneous laboratory reports on microscopic hair analyses in numerous prosecutions—including death penalty cases—and we request that the FBI provide a comprehensive briefing on these actions.

On April 20, 2015, the FBI issued a press release announcing that it has reviewed 500 of nearly 3,000 cases in which FBI examiners may have submitted reports or testified in trials using microscopic hair analysis. So far, this ongoing review has found:

In the 268 cases where examiners provided testimony used to inculcate a defendant at trial, erroneous statements were made in 257 (96 percent) of the cases. Defendants in at least 35 of these cases received the death penalty and errors were identified in 33 (94 percent) of those cases. Nine of these defendants have already been executed and five died of other causes while on death row.<sup>1</sup>

The scope of this catastrophe is almost impossible to believe. Our criminal justice system—and people's very freedom—relies on the integrity of FBI analysts' reports and testimony. To learn that the FBI systematically provided erroneous information and biased report results in matters of life and death is shocking and obviously unacceptable.

This problem also may extend far beyond the cases in which FBI examiners conducted analyses because the FBI trained state and local crime lab examiners in microscopic hair examination over the course of 25 years.

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<sup>1</sup> Federal Bureau of Investigation, *FBI Testimony on Microscopic Hair Analysis Contained Errors in at Least 90 Percent of Cases in Ongoing Review* (Apr. 20, 2015).

We need to understand more about these cases, including how this activity was allowed to persist for so long and what steps the FBI is taking to address previous cases. We commend you for collaborating with the National Association of Criminal Defense Lawyers and the Innocence Project to ensure some measure of justice for the affected defendants. However, as Peter Neufeld, the co-founder of the Innocence Project stated, “This epic miscarriage of justice calls for a rigorous review to determine how this started almost four decades ago and why it took so long to come to light.”<sup>2</sup>

For all of these reasons, we request that you provide a briefing by May 22, 2015, in order to address the following issues:

1. When the FBI first learned of the erroneous reports and testimony given by the Bureau’s microscopic hair examiners;
2. The review process for identifying these cases, including the anticipated time-frame to complete the review;
3. The FBI’s effort to notify the affected defendants, their representatives, or their next of kin to ensure that they have counsel appointed to assist them with available remedies;
4. The FBI’s effort to notify state and local crime labs that participated in FBI trainings in the area of microscopic hair comparison;
5. How the erroneous testimony and erroneous lab results occurred in the first place;
6. Disciplinary or personnel action against the 26 examiners who provided erroneous testimony and/or lab results; and
7. The FBI’s effort to study the validity of other areas of forensic science to prevent further injustice based on flawed scientific theory.

The Committee on Oversight and Government Reform is the principal investigative committee in the U.S. House of Representatives. Pursuant to House Rule X, the Committee has authority to investigate “any matter” at “any time.”

If you have any questions about this request, please contact Sean Brebbia of the Majority staff at (202) 225-5074 or Kelly Christl of the Minority staff at (202) 225-5051.

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<sup>2</sup> The Innocence Project, *Historic Review of Microscopic Hair Analysis Uncovers 96% Error Rate* (Apr. 20, 2015) (online at [www.innocenceproject.org/fbihair](http://www.innocenceproject.org/fbihair)).

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Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Chaffetz". The signature is stylized with a large initial "J" and a long, sweeping underline.

Jason Chaffetz  
Chairman

A handwritten signature in blue ink, appearing to read "Elijah E. Cummings". The signature is written in a cursive style with a large, prominent "E" at the beginning.

Elijah E. Cummings  
Ranking Member