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Press Release

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FBI National Press Office
(202) 324-3691

FBI Laboratory to Increase Outreach in Bullet Lead Cases

Expanding on a series of efforts that were first initiated in 2002, the FBI Laboratory announced today that it has undertaken an additional round of outreach, analysis, and review efforts concerning a discontinued forensic test known as Bullet Lead Analysis, or BLA. Previously, in September 2005, the FBI Laboratory announced that, after extensive study and consideration, it would permanently discontinue the examination of bullet lead.

"Recently, joint reporting by *The Washington Post* and CBS News brought to our attention concerns that our messages on the discontinuation of bullet lead analysis were not clear enough and getting to the right people," said John Miller, FBI Assistant Director for Public Affairs.

"In addition, working with the Innocence Project, the reporters brought to our attention some cases that may require closer examination of the scientific findings and testimony by FBI experts, and we are committed to go forward with that," Miller said.

Those additional steps being taken by the FBI and the Department of Justice include the following:

- The FBI has offered to work jointly with the Innocence Project, which has done legal research to identify criminal cases where bullet lead analysis has been introduced at trial.
- An additional round of letters is being transmitted to the original recipients of the FBI notices in 2005, updating those state and local crime laboratories and other agencies on the additional developments noted above and requesting that they again notify state and local prosecutors that may have introduced bullet lead analysis during trial.
- In particular, in BLA cases in which an examiner testified and which resulted in a conviction state, local, and other prosecutors are being asked to obtain and provide transcripts to the FBI and the DOJ of BLA testimony by FBI Laboratory examiners.
- These transcripts will undergo a multi-step review conducted by scientific and legal experts at the FBI and DOJ to determine whether the testimony was consistent with the findings of the FBI Laboratory in 2005, particularly concerning the inability of scientists and manufacturers to definitively evaluate the significance of an association between bullets made in the course of a bullet lead examination.
- If the reviews identify questions about the testimony, the prosecuting offices responsible for any such cases will be specifically and individually notified.
- An enhanced system for monitoring testimony to ensure it comports with the findings contained in lab reports is being implemented by the FBI Laboratory.

Bullet lead examinations have historically been performed when a firearm has not been recovered or when a fired bullet is too mutilated for comparison of physical markings. BLA uses analytical chemistry to determine the amounts of trace elements (such as copper, arsenic, antimony, tin, etc.) found within bullets. As a result of that analysis, crime-scene bullets were compared to bullets associated with a suspect. From the early 1980s through 2004, the FBI Laboratory conducted bullet lead examinations in approximately 2,500 cases submitted by federal, state, local, and foreign law enforcement agencies.

The results were introduced into evidence at trial in less than 20 percent of those cases.

In 2002, the FBI asked the National Research Council (NRC) of the National Academy of Science to have an independent committee of experts evaluate the scientific basis of comparative BLA. Specifically, the FBI divided the bullet lead examination into three parts – the scientific method, the data analysis, and the interpretation of the results – and asked the NRC for an impartial review of each area. The technology reviewed by the NRC had been used by the FBI Laboratory since 1996. Following the study, the NRC's recommendations were set forth in a 2004 report entitled "Forensic Analysis: Weighing Bullet Lead Evidence."

The NRC found that the FBI Laboratory's analytical instrumentation was appropriate and the best available technology with respect to precision and accuracy for the elements analyzed. It also found that the elements selected by the FBI for this analysis are appropriate. The NRC expressed concerns, however, on the interpretation of the results of bullet lead examinations.

Following the issuance of the report, the FBI Laboratory voluntarily discontinued bullet lead analysis while it embarked on an exhaustive 14-month review to study the recommendations offered by the NRC, including an evaluation of numerous statistical methodologies. That review resulted in the FBI announcement in 2005 that the temporary discontinuation of BLA would be made permanent. Several factors played a role in the decision, but it was primarily based on the inability of scientists and manufacturers to definitively evaluate the significance of an association between bullets made in the course of a bullet lead examination. The announcement received prominent media attention at the time.

At the time, Congress was briefed and letters outlining the FBI Laboratory's decision to discontinue BLA were sent to approximately 300 state and local crime laboratories and other agencies that received laboratory reports indicating positive results, as well as the National District Attorney's Association, the National Association of Criminal Defense Lawyers, and the Innocence Project, a litigation and public policy organization. Recipients were provided with a link to the NRC report and asked to provide a copy of the letter to all prosecutors working on any case to which the BLA may relate. The FBI offered to assist recipients, including assistance with regard to any discovery obligations, and provided name and contact information for experts at the Department of Justice and the FBI Laboratory. State prosecutors were asked to consult with discovery experts or appellate specialists within their office of the State Attorney General's Office to determine the effect of the announcement on their prosecutions. In addition, for all federal cases, the FBI notified its field offices and the Executive Office for United States Attorneys advised those U.S. Attorneys offices where cases had been brought utilizing BLA testimony.

Recently, in response to the 2005 notification, two news organizations working with the Innocence Project initiated an effort to obtain selected trial transcripts from state and local court cases and to undertake additional assessment. The Innocence Project analysis of some of the transcripts that were identified raised a question concerning the BLA testimony of FBI examiners, particularly concerning the inability of scientists and manufacturers to definitively evaluate the significance of an association between bullets made in the course of a bullet lead examination.

Assistant Director Miller acknowledged the efforts of both the legal organization and the news media.

"The digging into individual cases done by the Innocence Project, *The Washington Post*, and CBS News brought some serious concerns to our attention. The FBI is committed to addressing those concerns. It's the right thing to do," Miller said.

"These additional and ongoing efforts further demonstrate the commitment of the FBI to advancing the cause of forensic science and to the utilization of the highest scientific and evidentiary standards – and to protect innocent Americans from erroneous accusations," Miller said.

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