



655 15th Street NW, Suite 800
Washington, DC 20005

Via FedEx and E-mail

October 25, 2021

President's Council of Advisors on Science and Technology
Office of Science and Technology Policy
Executive Office of the President
Eisenhower Executive Office Building
1650 Pennsylvania Avenue NW
Washington, DC 20504
pcast@ostp.eop.gov

Re: *DOJ Statement on PCAST Report Regarding Forensic Science*

Dear Members of the President's Council of Advisors on Science and Technology:

On behalf of the Union of Concerned Scientists, Democracy Forward Foundation writes to call to your attention the attached Request for Correction of Information we submitted to the U.S. Department of Justice on June 24. In the attached request, we petitioned DOJ pursuant to the Information Quality Act to retract an unsigned statement entitled "United States Department of Justice Statement on the PCAST Report: *Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods*,"¹ which was posted to the DOJ website with a press release on January 13, 2021.²

The Trump-era DOJ Statement criticizes a 2016 Report by the President's Council of Advisors on Science and Technology, which assessed the state of forensic science, found certain forensic techniques to be insufficiently supported by scientific

¹ United States Department of Justice Statement on the PCAST Report: *Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods*, available at <https://www.justice.gov/olp/page/file/1352496/download> ("DOJ Statement").

² Press Release, DOJ Office of Public Affairs, Justice Department Publishes Statement on 2016 President's Council of Advisors on Science and Technology Report (Jan. 13, 2021), available at <https://www.justice.gov/opa/pr/justice-department-publishes-statement-2016-presidents-council-advisors-science-and>.

studies, and offered recommendations to improve their validity.³ Of particular significance, the PCAST Report determined that bitemark analysis is severely flawed and unlikely to be scientifically validated.

As explained in the attached petition, the DOJ Statement purports to show that certain non-dispositive portions of the PCAST Report are “fundamentally incorrect.” As we demonstrate, however, the DOJ Statement does not provide a substantive, scientific response to the PCAST’s findings. And, more critically, the DOJ Statement puts innocent people at risk of invalid convictions—a tragedy falling most heavily on people of color—by implying that DOJ does not believe forensic techniques should be improved as recommended by the PCAST.

Given the PCAST’s significant work to ameliorate serious issues with forensic techniques, we wanted to ensure that all new members are aware of the DOJ Statement’s efforts to undermine the PCAST Report. Although the Information Quality Act requires DOJ to thoroughly review the information contained in the Statement, provide a point-by-point response, and determine what corrective action is warranted, we have yet to receive any response to our request. The statutory deadline for DOJ’s response was Friday, October 22—now **past due**.

We are happy to discuss the errors pervading the DOJ Statement should that be of interest. We have also attached here a news article relating to these issues to provide further context. Please do not hesitate to contact us at jmorton@democracyforward.org, sspence@democracyforward.org, or (202) 448-9090.

Sincerely,

/s/ Jessica Anne Morton

Jessica Anne Morton, Senior Counsel
Democracy Forward Foundation

/s/ Samara M. Spence

Samara M. Spence, Senior Counsel
Democracy Forward Foundation

Counsel for the Union of Concerned Scientists

cc: Lisa Monaco, Deputy Attorney General, U.S. Department of Justice
Kevin Jones, Acting Assistant Attorney General, Office of Legal Policy, U.S.
Department of Justice

³ See PCAST, *Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods* (Sept. 2016), available at https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/PCAST/pcast_forensic_scienc_e_report_final.pdf (“PCAST Report”).

Melinda Rogers, Deputy Assistant Attorney General for Information
Resource Management

Dr. Eric Lander, Presidential Science Advisor; Director, Office of Science and
Technology Policy

Dr. Alondra Nelson, Deputy Director for Science and Society, Office of Science
and Technology Policy