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**WRITTEN STATEMENT OF KATIE MONROE, ESQ.
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ON THE DEPARTMENT OF JUSTICE'S FISCAL YEAR 2014 BUDGET**

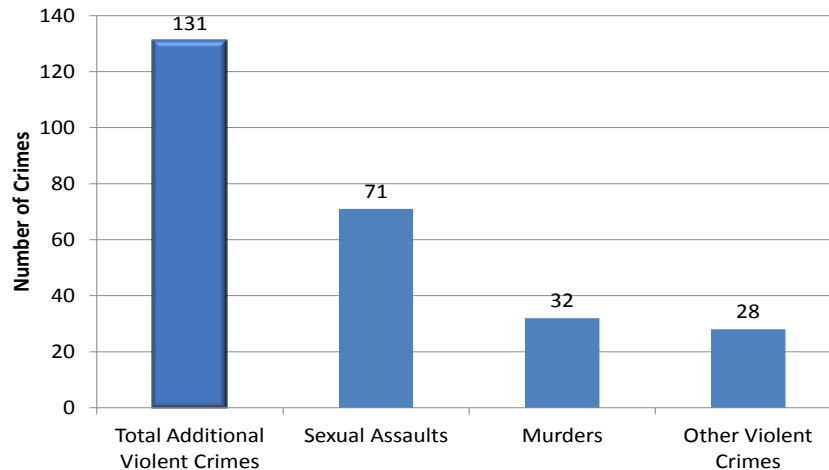
**BEFORE THE HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON
COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES
March 15, 2013**

On behalf of the Innocence Project, thank you for allowing me to submit testimony to the House Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies as it considers budget requests for fiscal year 2014. I write to request funding for the following programs, please:

- **\$3 million** for the Wrongful Conviction Review and the Capital Litigation Improvement Programs (*the Wrongful Conviction Review Program is a part of the Capital Litigation Improvement Program*), at the Department of Justice (DoJ), Bureau of Justice Assistance (BJA);
- **\$4 million** for the Kirk Bloodsworth Post-Conviction DNA Testing Program (the "Bloodsworth Program") at the DoJ, National Institute of Justice (NIJ);
- **\$12 million** for the Paul Coverdell Forensic Sciences Improvement Grant Program (the "Coverdell Program") at the NIJ; and
- **Sufficient funding** for the National Institute of Standards and Technology to support the National Commission on Forensic Science.

Freeing innocent individuals and preventing wrongful convictions through reform *greatly benefits public safety*. Every time DNA identifies a wrongful conviction, it enables the identification of the real perpetrator of those crimes. *True perpetrators have been identified in approximately half of the over 300 DNA exoneration cases*. Unfortunately, many of these real perpetrators had gone on to commit additional crimes while an innocent person was convicted and incarcerated in their place.

Real Perpetrators: Additional Violent Crimes
N=126 real perpetrators identified, affecting 147 exonerees



To date, 303 individuals in the United States have been exonerated through DNA testing, including 18 who served time on death row. These innocents served on average more than 13 years in prison before exoneration and release. However, I want to underscore the value of federal innocence programs not to just these exonerated individuals, but also to public safety, fairness, and achieving true justice for victims of violent crimes. It is important to fund these critical innocence programs because reforms and procedures that help to prevent wrongful convictions enhance the accuracy of criminal investigations, strengthen criminal prosecutions, and result in a stronger, fairer system of justice that provides true justice to victims of crime.

Wrongful Conviction Review Program

Particularly when DNA is not available, or when DNA alone is not enough to prove innocence, proving one's innocence to a level sufficient for exoneration is difficult compared to "simply" proving the same with DNA evidence. These innocents languishing behind bars require expert representation to help navigate the complex issues that invariably arise in their bids for post-conviction relief. And the need for such representation is enormous when only a small fraction of cases involve evidence that could be subjected to DNA testing. (For example, it is estimated that among murders, only 10% of cases have the kind of evidence that could be DNA tested.)

Realizing the imperative presented by such cases, the BJA dedicated part of its Capital Litigation Improvement Program funding to create the Wrongful Conviction Review program.¹ The program provides applicants—non-profit organizations and public defender offices dedicated to exonerating the innocent—with funds for providing high quality and efficient representation for potentially wrongfully convicted defendants in post-conviction claims of innocence.

¹ Reauthorization of the Innocence Protection Act. 111th Cong., 1st Sess., 8 (2009) (testimony of Lynn Overmann,

The program's goals, in addition to exonerating the innocent, are significant: to alleviate burdens placed on the criminal justice system through costly and prolonged post-conviction litigation and to identify, whenever possible, the actual perpetrator of the crime. Above all, though, this program forms a considerable piece of the comprehensive federal package of innocence protection measures created in recent years; without it, a great deal of innocence claims might otherwise fall through the cracks.

Numerous local innocence projects have been able to enhance their caseloads and representation of innocents as a result of the Wrongful Conviction Review grant program, including those in Alaska, Minnesota, Pennsylvania, and at the University of Baltimore. During the past two years, the Florida Innocence Project was able to achieve the exoneration of Derrick Williams through the support of this program, and the Mid-Atlantic Innocence Project helped secure the exoneration of Thomas Haynesworth in Virginia. Grant funds enabled the Northern California Innocence Project to hire staff to screen cases, thereby permitting their existing attorneys to commit to litigation, which resulted in the exonerations of three innocent Californians, Obie Anthony, Maurice Caldwell, and Franky Carillo. With Wrongful Conviction Review funding, the Innocence Project of Minnesota was able to prove that Michael Hansen did not kill his three month old. Additionally, Darrin Hill was exonerated after being wrongly confined at a state mental health facility for 20 years. Staff, who were cataloging evidence at Orleans Parish Criminal District Court pursuant to the grant secured for the state by the Innocence Project New Orleans (IPNO), found the rape kit that was collected in the case. IPNO's research suggests this is the first case ever in which a person so committed has been freed due to proof of innocence. The DNA testing not only freed Darrin, it has also provided law enforcement with the actual rapist's DNA profile.

To help continue this important work, we urge you to please provide a total of \$3 million for the Wrongful Conviction Review and the Capital Litigation Improvement Programs. (*The Wrongful Conviction Review Program is a part of the Capital Litigation Improvement Program.*)

The Bloodsworth Program

The Bloodsworth Program provides hope to innocent inmates who might otherwise have none by helping states more actively pursue post-conviction DNA testing in appropriate situations. These funds have had a positive impact that has led to great success. Many organizational members of the national Innocence Network have partnered with state agencies that have received Bloodsworth funding.²

It is worth noting that the Bloodsworth Program does not fund the work of organizations in the Innocence Network directly, but state applicants which seek support for a range of entities involved in settling innocence claims, including law enforcement agencies, crime laboratories, and a host of others – often in collaboration. Additionally, the Bloodsworth Program has

² The Innocence Network is an affiliation of organizations dedicated to providing pro bono legal and investigative services to individuals seeking to prove innocence of crimes for which they have been convicted and working to redress the causes of wrongful convictions.

fostered the cooperation of organizations in the Innocence Network and state agencies. For example, with the \$1,386,699.00 that Arizona was awarded for fiscal year 2008, the Arizona Justice Project, in conjunction with the Arizona Attorney General's Office, began the Post-Conviction DNA Testing Project. Together, they have canvassed the Arizona inmate population, reviewed cases, worked to locate evidence and filed joint requests with the court to have evidence released for DNA testing. In addition to identifying the innocent, *Arizona Attorney General Terry Goddard has noted that the "grant enables [his] office to support local prosecutors and ensure that those who have committed violent crimes are identified and behind bars."*³ Such joint efforts have also been pursued in Connecticut, Louisiana, Minnesota, North Carolina, and Wisconsin. Program funding has contributed to at least 10 exonerations. Most recently, Robert Dewey was released from prison after serving nearly 18 years for a rape and murder he did not commit. Colorado's Justice Review Project was able to achieve his exoneration through DNA testing funded by the Bloodsworth program.

The Bloodsworth program is a relatively small yet powerful investment for states seeking to do critically important work: to free innocent people who were erroneously convicted and to identify the true perpetrators of crime. The Bloodsworth Program has resulted in the exonerations of 10 wrongfully convicted persons in 7 states, and the true perpetrator was identified in four of those cases. For instance, Virginian Thomas Haynesworth was freed thanks to Bloodsworth-funded testing that also revealed the real perpetrator. **As such, we ask that you please provide \$4 million to continue the work of the Bloodsworth Post-Conviction DNA Testing Program.**

The Coverdell Program

Recognizing the need for independent government investigations in the wake of forensic scandals, Congress created the forensic oversight provisions of the Coverdell Program, a crucial step toward ensuring the integrity of forensic evidence. Specifically, in the Justice for All Act, Congress required that

[t]o request a grant under this subchapter, a State or unit of local government shall submit to the Attorney General...a certification that *a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results* committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.⁴

The Coverdell Program provides state and local crime laboratories and other forensic facilities with much needed federal funding to carry out their work both efficiently and effectively. Now, more than ever, as forensic science budgets find themselves on the chopping block in states and

³Arizona receives federal DNA grant, <http://community.law.asu.edu/news/19167/Arizona-receives-federal-DNA-grant.htm> (last visited Mar. 13, 2012).

⁴42 U.S.C. § 3797k(4) (emphasis added).

localities nationwide, the very survival of many crime labs may depend on Coverdell funds. **As the program supports both the capacity of crime labs to process forensic evidence and the essential function of ensuring the integrity of forensic investigations in the wake of serious allegations of negligence or misconduct, we ask that you please provide \$12 million for the Coverdell Program in fiscal year 2014.**

The National Institute of Standards and Technology (NIST)

The Innocence Project was happy to learn about the establishment of a joint DOJ-NIST National Commission on Forensic Science, and we respectfully request that the Subcommittee allocate sufficient funding to the Commission to initiate and sustain its work. We encourage the Committee to provide funding directly to NIST to administer the Commission's Guidance Groups, which will be responsible for developing guidance on practices for federal, state and local forensic science laboratories and measurement standards to quantify the accuracy and reliability of various non-DNA forensic techniques. We also encourage the Committee to instruct the National Science Foundation to prioritize basic and applied research that will focus on scientific bases for those forensic disciplines, and to support NSF adequately so that it can significantly advance this work.

Additional Note on the Department of Justice's Budget Requests

In the past, the Department of Justice's budget requests have defunded two of the above programs – the Coverdell and Bloodsworth Programs. We are concerned about the impact that zeroing out the Bloodsworth and Coverdell programs would have on the requirements and incentives that they currently provide for states to prevent wrongful convictions and otherwise ensure the integrity of evidence. These incentives have proven significant for the advancement of state policies to prevent wrongful convictions. Indeed, the Coverdell program forensic oversight requirements have created state entities and processes for ensuring the integrity of forensic evidence in the wake of scandal that has undermined public faith in forensic evidence. *The Coverdell program oversight requirements are essential to ensuring the integrity of forensic evidence in the wake of identified acts of forensic negligence or misconduct.*

The Innocence Project recommends that Congress maintain and fund these two programs by name, in order to preserve their important incentive and performance requirements. Doing away with these requirements would thwart the intent of Congress, which was to provide funding only to states that demonstrate a commitment to preventing wrongful convictions in those areas. Additionally, funding these programs would help to achieve their unique goals of providing access to post-conviction DNA testing for those who have been wrongfully convicted, and helping state and local crime labs process the significant amount of forensic evidence critical to solving active and cold cases, which helps to ensure public safety.

Conclusion

Thank you so much for your time and consideration of these important programs, and the opportunity to submit testimony. We look forward to working with the Subcommittee this year.