



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

MAR 21 2012

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am writing on behalf of the Department of Justice's Office of Justice Programs (OJP) to provide you with information requested by your staff in light of the Committee's hearing "Justice for All: Convicting the Guilty and Exonerating the Innocent."

As you are aware, OJP's National Institute of Justice (NIJ) administers the Post-Conviction DNA Testing Assistance Program, authorized under the Justice for All Act of 2004, Public Law 108-405. The program has led to successes by our grantees, who have shown commitment and dedication to ensuring that justice is served for those convicted of crimes they did not commit. Below you will find a selection of highlights from those efforts:

**Virginia Department of Forensic Science
Exoneree: Thomas Edward Haynesworth**

- On March 21, 2011, Thomas Edward Haynesworth was released on parole after serving 27 years for crimes that authorities had come to believe he did not commit. Mr. Haynesworth was arrested for rape in February 1984 and subsequently identified by a total of five women as their assailant in a series of sexual assaults in the city of Richmond and the neighboring county of Henrico. He was convicted in three attacks, acquitted in one, and one case was not prosecuted.
- DNA testing, funded through an NIJ grant, was performed on biological evidence that was preserved in an old laboratory case file relating to one of his Richmond convictions. The results eliminated Mr. Haynesworth as the source of DNA profiles identified on that evidence, and indicated the presence of DNA consistent with the profile of another convicted rapist. In September 2009, Mr. Haynesworth became the first person exonerated by the Virginia Supreme Court in a writ of actual innocence based on new DNA evidence in that case.

Virginia Department of Forensic Science

Exoneree: Calvin Cunningham

- Calvin Cunningham was convicted of rape in Newport News in May 1981. DNA testing completed in 2010 under the award eliminated Mr. Cunningham as a contributor of the DNA profiles found on evidence preserved in an old forensic laboratory case file. On April 12, 2011, Calvin Wayne Cunningham was exonerated by the Virginia Supreme Court, which granted his petition for Writ of Actual Innocence.

Texas Office of the Governor, Criminal Justice Division

Exoneree: Johnny Pinchback

- On May 12, 2011, the Innocence Project of Texas, through funding provided to the Texas Office of the Governor by NIJ, secured the release of Johnny Pinchback. Mr. Pinchback was incarcerated for more than 26 years for two aggravated sexual assaults that he did not commit. He was proven innocent via the DNA testing of rape kit evidence obtained from one of the victims shortly after her assault

Arizona Criminal Justice Commission

Exoneree: John Watkins

- On December 16, 2010, John Watkins was released from custody after serving 7.5 years for a sexual assault he did not commit. No semen or sperm was detected on the rape kit items and thus, in 2003, no DNA testing was conducted on this evidence. Mr. Watkins accepted a plea offer of 14 years for the sexual assault and another non-violent felony to avoid a potential life sentence.
- Utilizing NIJ funds awarded to the Arizona Criminal Justice Commission, the Arizona Justice Project and Arizona Attorney General's Office filed a joint motion for Y-TSR DNA testing. The DNA results conclusively excluded Watkins as the donor of the male DNA found on the evidence items.

State of North Carolina, Innocence Inquiry Commission

Exonerees: Kenneth Kagonyera and Robert Wilcoxson

- On September 22, 2011, Kenneth Kagonyera and Robert Wilcoxson were freed and found innocent of any involvement in the 2000 murder of Walter Bowman. The two men maintained their innocence throughout their incarceration, but had pled guilty to second-degree murder charges to avoid the death penalty or life in prison.
- In 2003, after the defendants had entered pleas, a federal inmate confessed to the homicide and named two accomplices. Tests on DNA from the crime scene generated a DNA profile and, after upload to CODIS, produced a match to one of the named accomplices and excluded both Mr. Kagonyera and Mr. Wilcoxson.

Washington Department of Commerce
Exoneree: Larry Davis and Alan Northrop

- Larry Davis and Alan Northrop were exonerated on July 14, 2010, after serving 17 years. Mr. Northrop and Mr. Davis were convicted of sexually assaulting a woman in 1993 in La Center, Washington.
- The Innocence Project NW Clinic was granted a request to test crime scene evidence using new DNA technology. The Washington State Patrol Crime Laboratory, using NIJ funding, conducted DNA testing from some samples in the cases and outsourced other samples to a private laboratory. These tests excluded Mr. Northrop and Mr. Davis as contributors of the DNA profiles found on the victim.

Kentucky Justice and Public Safety Cabinet
DNA Exoneree: Kerry Porter

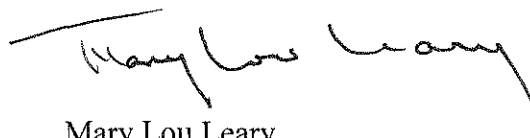
- On December 19, 2011 Kerry Porter was released from prison after serving 13 years for a murder he did not commit. Mr. Porter was sentenced to 60 years for the 1996 shooting death of his ex-girlfriend's husband despite there being no physical evidence linking Mr. Porter to the crime.
- DNA testing was not readily available and/or reliable at the time of Mr. Porter's trial, so the Kentucky Innocence Project, who receives funding from NIJ through the award to the Kentucky Justice and Public Safety Cabinet, asked for testing to be completed on a homemade silencer found at the crime scene. In 2011, DNA analysts were able to identify a male and female DNA profile from the silencer. Kerry Porter's DNA was excluded as being a contributor.

Non-DNA Exoneree: Michael VonAllmen

- Michael VonAllmen served 11 years of a 35 year sentence for rape, sodomy, and robbery. After reading an article discussing the receipt of Post-conviction DNA Testing Assistance funds by the Kentucky Innocence Project (through the Kentucky Justice and Public Safety Cabinet), Mr. VonAllmen contacted the Kentucky Innocence Project for assistance, despite the fact that he had been on parole for nearly 10 years.
- The DNA analysis produced inconclusive results. However, during the reinvestigation, the Kentucky Innocence Project discovered new evidence supporting Mr. VonAllmen's claim of innocence. A Jefferson County judge vacated Mr. VonAllmen's conviction, stating that the evidence shows he did not commit the crimes.

We look forward to working with you and the Committee on ways to continue and enhance our efforts. If I can be of assistance on this or any other matter, please contact OJP's Office of Communications at 202-307-0703.

Sincerely,



Mary Lou Leary
Acting Assistant Attorney General