May XX, 2018

The Honorable Jerry Moran
Chairman
Subcommittee on Commerce, Justice,
Science and Related Agencies
Senate Committee on Appropriations
Washington, DC 20510

The Honorable Jeanne Shaheen
Ranking Member
Subcommittee on Commerce, Justice,
Science and Related Agencies
Senate Committee on Appropriations
Washington, DC 20510

The Honorable John Culberson
Chairman
Subcommittee on Commerce, Justice,
Science, and Related Agencies
House Committee on Appropriations
Washington, DC 20515

The Honorable José Serrano
Ranking Member
Subcommittee on Commerce, Justice,
Science, and Related Agencies
House Committee on Appropriations
Washington, DC 20515

Dear Chairmen Moran and Culberson and Ranking Members Shaheen and Serrano:

The undersigned organizations thank you for the critical FY18 funding increases for innocence and forensic science programs and urge you to please robustly fund these programs at the Department of Justice and the National Institute of Standards and Technology at the Department of Commerce in the FY 2019 Commerce, Justice, Science, and Related Agencies appropriations bill. ***These innocence and forensic science programs increase the accuracy and fairness of the criminal justice system, provide the strongest possible forensic science tools to justice system stakeholders, and generate greater public safety for our nation.***

Specifically, we request that you appropriate the following FY19 funding levels:

- **$5 million** for the Wrongful Conviction Review Program at the Department of Justice (DoJ), Bureau of Justice Assistance (*the Wrongful Conviction Review Program is a part of the Capital Litigation Improvement Program);*
- **$10 million** for the Kirk Bloodsworth Post-Conviction DNA Testing Program at the DoJ, National Institute of Justice (NIJ);
- **$30 million** for the Coverdell Forensic Sciences Improvement Grant Program at NIJ;
- **$4.2 million** to support forensic science standards setting activities at the National Institute of Standards and Technology (NIST);
- **$15 million** for NIST to support forensic science research and measurement science.

National Registry of Exonerations data show that the number of exonerations has significantly increased since federal innocence programs - the Bloodsworth Post-Conviction DNA Testing and Wrongful Convictions Review programs - began to receive funding in 2008 and 2009, respectively. ***This dramatic increase in the number of exonerations is in part a result of the federal decision to invest in these programs to help ensure the accuracy and integrity of the criminal justice system.*** In the 20 years prior to the initiation of innocence program funding (from 1989 to 2008), the rate of exonerations was much lower. ***In 2016, the number of exonerations was at its highest with 171 exonerations.*** These effective program outcomes show the power and need to invest in federal innocence and forensic science programs.

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 person who actually committed the crime. ***Such true perpetrators have been identified in approximately half of the over 350 DNA exoneration cases***. Unfortunately, many of these individuals went on to commit additional crimes while an innocent person was convicted and incarcerated in their place.

To date over 350 individuals in the United States have been exonerated through DNA testing, including 20 who served time on death row. These innocents served an average of 14 years in prison before exoneration and release. However, the value of federal innocence and forensic science programs is not to just these exonerated individuals. It is important to fund these critical 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

We know that wrongful convictions occur in cases where DNA evidence is not sufficient or even available to prove innocence. The National Registry of Exonerations currently lists almost 2,200 exonerations since 1989 -- over 350 of which were based primarily on DNA. The Wrongful Conviction Review Program provides critical support to ensure that experts are available to navigate the complex landscape of post-conviction litigation, as well as oversee the thousands of volunteer hours local innocence organizations leverage to help investigate these complex cases and support the significant legal work they require. ***The Wrongful Conviction Review Program has contributed to 30 exonerations over the past 3 years.***

The Wrongful Conviction Review Program provides funding to local innocence organizations so that they may provide this type of expert, high quality, and efficient representation for innocent individuals. The program's goals are both to alleviate burdens placed on the criminal justice system through costly and prolonged post-conviction litigation ***and to identify, whenever possible, the person who actually committed the crime.***

To help continue this important work, ***we urge you to provide $5 million for the Wrongful Conviction Review Program in FY19 (the Wrongful Conviction Review Program is a part of the Capital Litigation Improvement Program.)***

The Bloodsworth Program

The Bloodsworth Program supports states and localities that want to pursue post-conviction DNA testing in appropriate cases. The program does not directly fund the work of local innocence organizations, but instead focuses on state and local applicants, including law enforcement agencies, crime laboratories, and a host of others – often in collaboration with each other, as well as with local innocence organizations. For example, a Bloodsworth grant to Arizona allowed the state's Attorney General's Office to partner with the Arizona Justice Project to create the Post-Conviction DNA Testing Project. This effort canvassed the Arizona inmate population, reviewed cases, located 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 noted that the "grant enable[d] [his] office to support local prosecutors and ensure that those who have committed violent crimes are identified and behind bars."*[1]

The Bloodsworth program is a powerful investment for states seeking to free innocent individuals and identify the individuals who actually committed the crimes. ***The program has resulted in the exonerations of 44 wrongfully convicted persons in 14 states. The person who actually committed the crime was identified in 13 of those cases***. For example, Virginian Thomas Haynesworth, who was wrongfully incarcerated for 27 years, was freed thanks to Bloodsworth-funded DNA testing that also revealed the person who actually committed the crime. The culpable person in that case went on to terrorize the community by attacking twelve women, with most of the attacks and rapes occurring while Mr. Haynesworth was wrongfully incarcerated. Given the importance of this program to both innocent individuals and public safety, we ***urge you to provide $10 million to continue the work of the Bloodsworth Post-Conviction DNA Testing Program in FY19.***

The Coverdell Program

Recognizing the need for independent government investigations in the wake of allegations of forensic negligence or misconduct, Congress created the forensic oversight provisions of the Coverdell Program, a crucial step toward ensuring the integrity of and improving public confidence in 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.[2]

The Coverdell Program provides state and local crime laboratories and medical examiner offices with much needed federal funding to carry out their work both efficiently and effectively. As forensic science budgets find themselves severely stretched in many states and localities as a result of the opioid epidemic, and as federal bodies recommend the implementation of new policies, standards, and guidelines, the Coverdell funds are critical to ensure that crime labs can function both efficiently and effectively. 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 ***urge you to provide $30 million for the Coverdell Program in FY19.***

[1]Arizona receives federal DNA grant, http://community.law.asu.edu/news/19167/Arizona-receives-federal-DNA-grant.htm (last visited Mar. 13, 2012).
[2] 42 U.S.C. § 3797k(4) (emphasis added).

Forensic Science Improvement

To continue the critical work to improve forensic science, and help prevent wrongful convictions, we urge you to provide ***the following amounts in FY19 for forensic science improvements, including:***

- **$4.2 million** directed to NIST to support forensic science technical standards development, including ***$3 million*** to support the Organization of Scientific Area Committees (OSAC) and ***$1.2 million*** to support technical merit evaluations.

- **$15 million for the National Institute of Standards and Technology (NIST)** at the Department of Commerce to support forensic science research and measurement science.

As the federal entity that is both perfectly positioned and institutionally constituted to conduct measurement science and foundational research in support of forensic science, NIST's work will improve the validity and reliability of forensic evidence, a need cited by the National Academy of Sciences 2009 report, *Strengthening Forensic Science in the United States: A Path Forward.*[3] NIST's reputation for innovation will result in technological solutions to advance forensic science applications and achieve a tremendous cost savings by reducing court costs posed by litigating scientific evidence.

The OSAC is seen by many as the most significant federal forensic science initiative in recent years. State and local forensic scientists, who conduct the vast majority of forensic science casework, are in strong support and are significantly involved in this effort. In order for a standard to qualify for the registry that the OSAC maintains, it must demonstrate that it is technically sound. Some forensic science methods have not yet received an evaluation of their technical merit and NIST needs further support to conduct these vital reviews. At a time when public safety and national security are some of our nation's top priorities, it is imperative that Congress invest in scientific tools that support these endeavors. The forensic science activities and research at NIST will help to greatly improve forensic disciplines and propel forensic science toward greater accuracy and reliability.

Thank you for your leadership in helping to ensure the accuracy, integrity, and reliability of our nation's criminal justice system. We urge you to support all of the aforementioned programs, including the Wrongful Conviction Review; Bloodsworth; Coverdell; and NIST forensic science programs. If you have any questions, or need additional information, please contact Jenny Collier, Federal Policy Advisor to the Innocence Project, at jcollier@colliercollective.org.

Sincerely,

Stakeholder sign-on in process

[3] National Research Council. Strengthening Forensic Science in the United States: A Path Forward. Washington, DC: The National Academies Press, 2009. doi:10.17226/12589, p. 22-23.