

CONNECTICUT INNOCENCE PROJECT

**State of Connecticut
DIVISION OF PUBLIC DEFENDER SERVICES**

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***TESTIMONY OF KAREN A. GOODROW
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***UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME, TERRORISM AND HOMELAND SECURITY***

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My name is Karen A. Goodrow and I am the Director of the Connecticut Innocence Project (CTIP), which is a part of the Division of Public Defender Services for the State of Connecticut. I am here to testify with regard to Reauthorization and Improvement of DNA Initiatives of the Justice For All Act of 2004. Present with me today is my client, Mr. Kenneth Ireland, who was released from prison on August 5, 2009 after serving twenty-one years in prison for crimes for which he was innocent. Post-conviction DNA testing, which was

conducted with the assistance of the Office of the State's Attorney, State of Connecticut Forensic Science Laboratory and the Wallingford Police Department, established that Mr. Ireland was innocent of the murder and sexual assault for which he had been convicted. Mr. Ireland was exonerated on August 19, 2009, when all of the charges against him were dismissed. Thank you for inviting us here today.

The Connecticut Innocence Project began its review of Mr. Ireland's case in January, 2007, at a time when CTIP had not yet received designated funding from the State of Connecticut, and within months of CTIP being denied funds from the 2006 Bloodsworth Post-Conviction DNA Testing Grant Program. Had the Bloodsworth grant money been awarded to the Connecticut Innocence Project, Mr. Ireland's release from prison would certainly have been expedited.

I. History of the Connecticut Innocence Project.

In August, 2004, the then Chief Public Defender for the State of Connecticut established the Connecticut Innocence Project for the purpose of post-conviction review of cases of innocence. I, along with Attorney Brian Carlow of the Public Defender Division, was requested by the Chief Public Defender to Co-Chair CTIP. Our responsibilities included managing the numerous requests from inmates, reviewing their files, locating physical evidence, and in appropriate cases, obtaining post-conviction DNA testing, and litigating claims of innocence.

At this early stage, CTIP had not yet obtained designated funding from the State of Connecticut, nor did it receive any private or independent funding from any source. Indeed, case reviews and other functions of CTIP were conducted entirely by the efforts of the Co-Chairs and other volunteers within the Public Defender Division, as well as volunteers from the private sector. During this period, both Attorney Carlow and I were supervising other public defender offices, therefore, we had limited time and resources to devote to the CTIP cases. Within the first year of its existence, the Connecticut Innocence Project was fortunate to receive pro bono assistance and office space from the private law firm of McCarter & English. The pro bono assistance from McCarter & English continues to this day, and includes all aspects of service to CTIP's clients.

II. Exoneration of James Calvin Tillman:

In January, 2005, CTIP began its review of Mr. Tillman's case. Mr. Tillman, an African-American, was convicted in 1989 after a jury trial of sexual assault in the first degree and related charges as a result of crimes committed against a white female office worker. He was sentenced to a term of imprisonment of forty-five years. The assailant was a stranger to the victim, however, she identified Mr. Tillman from photographs as her attacker. Mr. Tillman always maintained his innocence. CTIP, through the efforts and cooperation of the Office of the State's Attorney, State of Connecticut Forensic Science Laboratory, and the Hartford Police Department secured post-conviction DNA testing on crucial physical evidence from the case, including semen left on the clothing of the victim. The DNA testing revealed the existence of a

single male profile on multiple areas of the clothing. Mr. Tillman was unequivocally excluded as the contributor to the DNA.

The DNA results established what Mr. Tillman steadfastly maintained throughout the case, that he was innocent. On June 6, 2006, Mr. Tillman was released from prison after serving eighteen and one-half years in prison for crimes which he did not commit; he was exonerated on July 11, 2006, when all of the charges against him were dismissed. In 2007, the true perpetrator was identified through the national DNA databank when he was arrested in the State of Virginia on an unrelated matter and the DNA profile from the victim's clothing matched the offender's profile from Virginia.

In 2007, as a result of his wrongful conviction, Mr. Tillman was awarded compensation in the amount of \$5 million dollars through a Special Act of the Connecticut Legislature.¹

III. *Connecticut Innocence Project's Application for funding from the 2006 Kirk Bloodsworth Post-Conviction DNA Testing Assistance Program:*

The Connecticut Innocence Project applied for funding from the 2006 Bloodsworth Grant, but was inexplicably denied funding, in spite of the fact that Connecticut and Arizona were the only two states which met the strict requirements of the application process which were then

¹ Mr. Tillman's compensation predated the passage of Connecticut's Compensation Statute, Connecticut General Statutes, Section 54-102uu.

in place. In its letter denying CTIP funding, the Department of Justice failed to explain the reasons why CTIP's application fell short of the guidelines, particularly given the fact that each of the requirements set forth in the solicitation were met. In fact, CTIP has received no explanation for the reason the 2006 grant application was denied, in spite of Connecticut's extensive statutory scheme designed to preserve evidence and to protect the rights of the innocent, in part through access to post-conviction DNA testing.²

At the time the application for the 2006 Grant fund was made, the Connecticut Innocence Project had not yet obtained designated funding from the State of Connecticut. CTIP was still being managed by Attorney Carlow and me, and we both had primary responsibilities to other public defender offices which we supervised. In applying for the grant, it was our hope that we would receive Bloodsworth funding which would provide us with the necessary resources to expedite the review of post-conviction DNA cases of innocence. Unfortunately, CTIP was denied the Bloodsworth funding, and did not obtain designated funding from the State of Connecticut until nearly a year after the Bloodsworth application was denied.

IV. Connecticut Innocence Project's Designated Funding from the State of Connecticut in 2007:

² Connecticut's statutory scheme includes preservation of biological evidence (54-102jj), access to post-conviction DNA testing (54-102kk), DNA databank oversight (54-102m), review of wrongful convictions (54-102pp), compensation for wrongful incarceration (54-102uu), and retention of court records (51-36). See Connecticut General Statutes, Appendix, Pages 12-20.

In 2007, the Legislature of the State of Connecticut, with the approval of Governor M. Jodi Rell, designated in its budget specific funding for the Connecticut Innocence Project through the Division of Public Defender Services. I was appointed as the Director of the Connecticut Innocence Project in August, 2007. Additional staff members include a second attorney, an investigator and an administrative assistant/paralegal. As a result of designated funding for CTIP, we have been able to review and process more quickly the many applications for assistance which we receive, resulting in two additional DNA exonerations in 2009. In addition to Mr. Ireland's exoneration in August 2009, Mr. Miguel Roman was exonerated in April, 2009.

V. Exoneration of Miguel Roman – April, 2009:

In November, 2005, CTIP began its review of Mr. Roman's case upon the request of Mr. Roman's private counsel. Mr. Roman was convicted of killing a woman with whom he had been involved; at the time of her murder, the victim was pregnant. The State's theory of the case was that Mr. Roman killed the victim because she was pregnant by Mr. Roman, providing motive for the murder. Although the crime scene was consistent with a rape/murder, DNA testing at the time of the criminal trial in 1990 concluded that the semen found in the victim did not match Mr. Roman. Mr. Roman was not charged with rape, but was convicted of murder after a jury trial, and was sentenced to a term of imprisonment of sixty years. Mr. Roman always maintained his innocence.

In 2008, CTIP, in collaboration with Mr. Roman's private counsel, and in cooperation with the Office of the State's Attorney, State of Connecticut Forensic Science Laboratory and

Hartford Police Department, secured post-conviction DNA testing of crucial physical evidence, including the victim's underwear and the neck ligature used to strangle the victim. The DNA testing established the presence of a single male profile on the vaginal swab from the victim, the victim's underwear and the neck ligature. Mr. Roman was unequivocally excluded as the contributor to the DNA. Through the State of Connecticut DNA databank, the single male profile was identified as that of the long-term boyfriend/common law husband of the victim's cousin. This individual was with the victim on the evening of her murder, was questioned by the police during their investigation, and subsequently committed sexual offenses for which he was convicted and imprisoned. The DNA profile of this individual had been maintained in the State of Connecticut DNA databank as a result of his felony conviction. Furthermore, police investigation into the innocence of Mr. Roman led to the arrest of this individual as the true perpetrator of the crime, and also led to his arrest in two other cold cases involving the murders of two young women.

After serving twenty and one-half years in prison for crimes which he did not commit, Mr. Roman was released from prison on December 19, 2008. He was exonerated on April 2, 2009 when all of the charges against him were dismissed. DNA evidence proved what Mr. Roman had steadfastly maintained, that he was innocent. Mr. Roman's release and exoneration would have certainly been expedited had the Bloodsworth Grant funding from CTIP's 2006 application been approved.

VI. *Exoneration of Kenneth Ireland – August, 2009.*

CTIP began its review of Mr. Ireland's case in April, 2007. Mr. Ireland was convicted in 1989 after a jury trial of the rape and murder of a female factory worker and mother of four. The State's theory of the case was that Mr. Ireland, along with two other individuals, committed the offenses against the victim. Neither of the two other individuals was ever arrested; one individual died prior to Mr. Ireland's arrest, and the other individual died in the last year. The evidence used to convict Mr. Ireland consisted mostly of the testimony of two individuals who testified that Mr. Ireland and one of the other alleged participants had made incriminatory statements and displayed incriminatory behavior in their presence. These two witnesses received substantial award money in exchange for their testimony. Mr. Ireland always maintained his innocence.

During 1999, as part of a post-conviction habeas hearing, Mr. Ireland's habeas counsel requested that DNA testing be conducted on certain items of evidence. The testing did not yield definitive results.

In 2009, CTIP, in collaboration with the Office of the State's Attorney, State of Connecticut Forensic Science Laboratory and Wallingford Police Department, secured DNA testing of crucial evidence in the case, including vaginal swabs and vaginal smears from the victim. The DNA testing established the existence of a single male profile on the swabs and smears. Mr. Ireland, as well as the two other claimed participants, was unequivocally excluded

as the contributor to the DNA. Although the DNA profile has been processed into the State and National DNA databanks, to date, there has been no identification of the true perpetrator. The State of Connecticut Forensic Laboratory conducts weekly searches of both the State and National databanks with the hope of obtaining an identification of the DNA profile in this case. Additionally, the Wallingford Police Department has reopened its investigation.

Based upon the new DNA evidence, Mr. Ireland was released from prison on August 5, 2009, after having served twenty-one years in prison for crimes which he did not commit. He was exonerated on August 14, 2009 when all of the charges against him were dismissed. The post-conviction DNA evidence proved what Mr. Ireland had steadfastly maintained, that he was innocent. Mr. Ireland's release and exoneration would have certainly been expedited had the Bloodsworth Grant funding from CTIP's 2006 application been approved.

VII. Pending Application for 2009 Post-Conviction DNA Testing Assistance Program – A Collaborative Effort.

The Connecticut Innocence Project, in collaboration with the Office of the State's Attorney and the State of Connecticut Forensic Science Laboratory, has pending an application with the National Institute of Justice for funding under the 2009 Post-Conviction DNA Testing Assistance Program. The purpose of the request for funding is to help defray the costs associated with post-conviction DNA testing of forcible rape, murder and non-negligent manslaughter cases in which actual innocence might be demonstrated. The funding requested will be used in a collaborative effort by the three State agencies involved with the desired goal to

expedite the identification of relevant cases for testing, and the exoneration of wrongfully convicted individuals.

With the benefit of additional resources, the process of identifying relevant cases will involve a creative collaboration between the Connecticut Innocence Project and the Office of the State's Attorney, as well as local and State police. Cases will be identified in one of two ways: (1) CTIP will conduct informational sessions with inmate populations at each Department of Correction facility in the State of Connecticut to advise those inmates serving sentences for forcible rape, murder and non-negligent manslaughter of the availability of the program, and to instruct inmates on the process for seeking assistance; and (2) the Office of the State's Attorney will actively seek the identification of relevant cases from State and local police departments, as well as from each State's Attorney within each Judicial District.

Since its brief inception, the Connecticut Innocence Project has represented three individuals who were exonerated through the use of post-conviction DNA testing. In each case, the individual served a substantial period of time (between 18.5 and 21 years) before his wrongful conviction was corrected through the use of DNA testing. In each case, CTIP worked with the cooperation of, and/or in collaboration with the Office of the State's Attorney, the State of Connecticut Forensic Science Laboratory and local and State police departments, as well as other necessary State agencies and offices which assisted CTIP with its mission. In all three of the cases, single male DNA profiles of the actual perpetrators were identified through post-conviction DNA testing. In two of the cases, the actual perpetrator was identified and arrested. In one

case, the perpetrator was arrested for two additional murders which had languished as cold cases for nearly twenty years.

VIII. Collaborative Efforts – the Necessity for Relationship-Building:

As Director of the Connecticut Innocence Project, I attended the January, 2009 Symposium in Florida sponsored by the National Institute of Justice, which was intended to set the stage for successful applications for the Post-Conviction DNA Testing Grant Program. While in attendance, I observed stake-holders from various criminal justice agencies throughout the United States form necessary relationships, often for the first time, with the purpose of collaborating on post-conviction DNA testing. The common goal was to exonerate the innocent.

The Connecticut Innocence Project has been fortunate to have benefited from the collaborative efforts of, and the relationship-building between, key stake-holders in the criminal justice system in Connecticut. The successful results of the cases of Mr. Tillman, Mr. Roman and Mr. Ireland are due in great measure to the cooperation and assistance of these key individuals. Relationship-building between CTIP and other stake-holders has been on-going since the inception of CTIP, and has grown with time and experience. However, other states may not have had the same past opportunity to forge such beneficial working relationships. Because the Symposium was held just prior to the final year of authorized funding, four years of potential grant applicants potentially did not benefit from the lessons learned as a result of the Symposium.

The need for the Bloodsworth Grant is so critical, particularly in states where there is limited State funding and diminished private resources, that it should be permanently funded. Certainly, it is clear that the Bloodsworth Grant achieved its intended desire during its first authorization cycle for Fiscal Years 2005-2009. Additionally, the need for federal-to-state guidance regarding best practices for biological evidence retention would benefit all states. A sentiment continually heard from participants at the Florida Symposium was the fact that the critical issue in post-conviction DNA testing is the retention of biological evidence. Continued funding of the Bloodsworth Grant would provide the necessary guidance to states on the proper retention of crucial biological evidence which is at the heart of all successful DNA exonerations.

IX. Conclusion:

The funding offered through the Bloodsworth Grant is essential in order for States to obtain adequate resources to insure that innocent inmates, serving lengthy sentences for crimes which they did not commit, have an opportunity to demonstrate their innocence through post-conviction DNA testing. The Bloodsworth Grant funding is particularly crucial to small projects such as CTIP, which operate on relatively modest budgets. States with small projects and limited resources rely heavily on the availability of Bloodsworth funding. In order to insure that innocent individuals wrongfully convicted and incarcerated receive justice, it is absolutely necessary that the Bloodsworth Grant be continually funded and available to States. Moreover, the use of the Bloodsworth Grant in a collaborative manner provides a necessary tool for law enforcement to insure that the true perpetrators of crime are brought to justice.