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**WRITTEN STATEMENT OF STEPHEN SALOOM, ESQ.
POLICY DIRECTOR, INNOCENCE PROJECT
ON THE DEPARTMENT OF JUSTICE'S FISCAL YEAR 2013 BUDGET**

**BEFORE THE HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON
COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES
March 16, 2012**

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 2013. I write to request the continued funding of the following programs at the described levels:

- The Paul Coverdell Forensic Sciences Improvement Grant Program (the “Coverdell Program”) at **\$20 million** through the Department of Justice, National Institute for Justice (the “NIJ”);
- The Kirk Bloodsworth Post-Conviction DNA Testing Program (the “Bloodsworth Program”) at the FY 12 level of **\$4 million** through the NIJ; and
- The Wrongful Conviction Review Program, which is a part of the Capital Litigation Improvement Program, at **\$2.5 million**, for a total Capital Litigation Improvement Program allocation of \$5 million through the Department of Justice, Bureau of Justice Assistance (the “BJA”).

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 45 percent of the DNA exoneration cases*. To date, 289 individuals in the United States have been exonerated by DNA testing, with these innocents serving on average 13 years in prison. However, I want to underscore the value of federal innocence programs not to just these exonerated individuals, but also to public safety and justice. 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.

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.¹

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 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 fund the Coverdell Program at \$20 million in fiscal year 2013.**

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 much 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 Innocence Projects 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 fostered the cooperation of innocence projects 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

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

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.

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.

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 nine wrongfully convicted persons in six states, and the true perpetrator was identified in three 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 continue to fund the Bloodsworth Program at its current FY 12 funding level of \$4 million.**

Wrongful Conviction Review Program

Particularly when DNA isn’t available, or when it alone isn’t enough to prove innocence, being able to prove one’s innocence to a level sufficient for exoneration is even harder than “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.⁴ The program provides applicants—non-profit organizations and public defender offices dedicated to exonerating the innocent—with funds directed toward providing high quality and efficient representation for potentially wrongfully convicted defendants in post-conviction claims of innocence.

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

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

⁴ Reauthorization of the Innocence Protection Act. 111th Cong., 1st Sess., 8 (2009) (testimony of Lynn Overmann, Senior Advisor, Office of Justice Programs).



Alaska, Minnesota, Pennsylvania, and at the University of Baltimore. During the past year, 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. **To help continue this important work, we urge you to fund the Wrongful Conviction Review Program at \$2.5 million**, for a total allocation of \$5 million for the Capital Litigation Improvement Program line.

Additional Notes on the Department of Justice's Requested Budget for FY 2013

The Department of Justice's fiscal year 2013 budget request defunds two of the above programs – the Coverdell and Bloodsworth Programs. These programs potentially would be rolled into a much broader "DNA Initiative" for a requested fiscal year 2013 funding level of \$100 million, or perhaps not supported at all.

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 in states entities and processes for ensuring the integrity of forensic evidence in the wake of the forensic scandals that have 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.