

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Chairman, Senate Judiciary Committee

On "Oversight of the Justice for All Act: Has the Justice Department Effectively Administered the Bloodsworth and Coverdell DNA Grant Programs?"
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In 2000, I introduced the Innocence Protection Act , which aimed to improve the administration of justice by ensuring that defendants in the most serious cases have access to counsel and, where appropriate, access to post-conviction DNA testing necessary to prove their innocence in those cases where the system got it grievously wrong. As a former prosecutor, I saw both sides of the crisis that DNA testing had illuminated in clearing those wrongfully convicted. The first tragic consequence was what our system of criminal justice is designed to prevent--the conviction of innocent defendants. The second was the criminal justice nightmare that the actual wrongdoer remains undiscovered, and possibly at large, committing additional crimes.

Some of those who inspired that bill are with us today. Kirk Bloodsworth was a young man just out of the Marines when he was arrested, convicted, and sentenced to death for a heinous crime that he did not commit. DNA evidence ultimately freed him and identified the real killer. He became the first person in the United States to be exonerated from a death row crime through the use of DNA evidence. The years he spent in prison were hard, as has been his journey since his vindication. But instead of becoming embittered, Kirk chose to use his experience to help others, including working hard to get the landmark legislation passed that rightly bears his name and whose implementation is the subject before us today.

Also with us is Peter Neufeld, who, with his partner Barry Scheck, penned the extraordinary book Actual Innocence. Their work at the Innocence Project was fundamental to the changes in law we have achieved. Shawn Armbrust was then a young student who had taken part in a journalism class at Northwestern University and successfully reinvestigated a capital conviction in Illinois. She was able to intervene in the nick of time to save someone from being wrongfully executed. Ms. Armbrust went on to law school and now heads the Mid-Atlantic Innocence Project at American University.

It took hard work and time, but in 2004, Congress passed the Innocence Protection Act as an important part of the Justice for All Act. Congress recognized the need for important changes in criminal justice forensics despite resistance from the current Administration. It was an unprecedented bipartisan piece of criminal justice reform legislation intended to ensure that law enforcement has all the tools it needs to find and convict those who commit serious crimes, but

also that innocent people have the means to establish and prove their innocence. It was the most significant step Congress had taken in many years to improve the quality of justice in this country and to restore public confidence in the integrity of the American justice system.

We provided law enforcement with resources and training to ensure that forensic testing, and particularly DNA testing, could be used to identify the perpetrators of horrendous crimes, as well as to establish standards and practices to ensure the accuracy of those findings. More than 120 innocent people have now been freed from death row according to the Death Penalty Information Center - a truly alarming number. And it is in everyone's interest for the guilty parties to be found and punished. Comprehensive and accurate forensic testing, along with adequately trained and funded counsel on all sides, will help to convict the guilty and free the innocent.

With us today are a few more of those who served many years for crimes they did not commit before being freed based on DNA testing. Charles Chatman was freed earlier this month by a judge in Dallas, Texas, after serving 27 years - 27 years - for a crime for which DNA evidence now shows he was innocent. Marvin Anderson of Virginia was exonerated in 2001 based on DNA evidence in a heinous case for which he wrongfully served 15 years in prison. I thank Mr. Chatman and Mr. Anderson for being here and for working to prevent others from having to endure the kinds of ordeals they went through.

DNA evidence is as timely and vital as this morning's news. Today we examine the Justice Department's handling of important programs included in that legislation more than three years ago. We focus on the Kirk Bloodsworth and Paul Coverdell grant programs. The Kirk Bloodsworth Post-Conviction DNA Testing grant program is one of which I am particularly proud. It was intended to provide grants for states to conduct DNA tests in cases in which someone has already been convicted - but key DNA evidence was not tested.

It is exactly this kind of testing that ultimately exonerated Kirk Bloodsworth, for whom the program was named, and has vindicated so many others.

When Kirk and I celebrated the passage of the Justice for All Act in 2004, it was our hope that this legislation would help spare others the kind of ordeal that he and Mr. Chatman and Mr. Anderson went through, and that it would lead law enforcement to find the true perpetrators of horrific crimes. I am troubled to find that more than three years later, with Congress having appropriated almost \$14 million to the Bloodsworth program, not a dime has been given out to the states for this worthy purpose. This money has sat in DOJ's coffers without any of it going to help innocent people like Kirk secure their freedom, or to help law enforcement to find the real culprits. The problem is that the Department has interpreted the law's reasonable and important evidence preservation requirement so restrictively that even states like Arizona, which have comprehensively documented their DNA preservation efforts, have been rejected. That is not what I intended when I wrote and we passed this legislation.

Today, because of this hearing and because of our follow-up efforts in the appropriations process, I expect to hear that the Department now intends to implement the law and to solicit and award the millions of dollars of Bloodsworth grants that have been delayed these past years.

I trust we will not be disappointed, again.

The second program we are considering today is one that Senator Sessions and I worked to pass to establish the Paul Coverdell Forensic Science Improvement Grants Program. Named for a former Republican Senator from Georgia, these grants were intended to help states improve the quality of their forensic science and medical examiner services and reduce their crime lab backlogs. The Justice for All Act of 2004 expanded this program and added a key requirement that states must have independent entities available to investigate allegations of serious negligence or misconduct by forensic labs in their jurisdiction.

We will hear from Inspector General Glenn Fine that he has found the Department has largely ignored this requirement and that many states did not have a qualified independent entity to investigate allegations of lab misconduct. So while the Department interpreted the Bloodsworth requirements so strictly as to effectively shut down the program, it essentially disregarded entirely the important requirements we created for the Coverdell program. It is passed time for the executive to fulfill its constitutional duty and faithfully execute the law and implement these vital programs reasonably and meaningfully as Congress intended.

There is little that the executive branch does that is more important than working to catch and convict those responsible for serious crimes. As a former prosecutor, I am committed to creating a system of justice that is just and fair. I hope this hearing will bring us one step closer to seeing that goal realized.

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