

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
"Strengthening Our Criminal Justice System: Extending The Innocence Protection Act"
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Today, the Judiciary Committee focuses on a vital component of our jurisdiction: ensuring that our criminal justice system works fairly and effectively to advance justice. Five years ago, Congress made great strides toward that goal by passing the Justice For All Act, which included the Innocence Protection Act. Today, we begin to build on that important step.

I introduced the Innocence Protection Act in 2000 with the primary goal of making sure that death penalty cases are conducted fairly. Its passage in 2004 was a groundbreaking moment. Unfortunately, recent headlines make clear that our work in this area is far from done. The New Yorker reported this fall that in 2004, the unthinkable may have happened: the state of Texas may have executed an innocent man. While we may never know for sure the truth in that case, it is abundantly clear that our criminal justice system did not work as it must to fully test the strength and validity of the evidence. In that case, forensic evidence which may not have had any scientific basis went largely unquestioned.

In Dutchess County, New York, last month, a judge released Dewey Bozella after finding that evidence concealed for more than 30 years showed he was not guilty of the murder for which he spent 26 years in prison. Key evidence, including DNA evidence, that could long ago have conclusively exonerated Mr. Bozella, was not preserved. Equally troubling, the destruction of that evidence has made it impossible to convict the likely perpetrator, a man who went on to commit another heinous murder. Mr. Bozella is here today with his wife and with the team of lawyers who prevailed after so many years in getting his case reexamined.

As a former prosecutor, I have great faith in the men and women of law enforcement, and I know that the vast majority of the time our criminal justice system does work fairly and effectively. I also know though that the system only works as it should when each side is well represented by competent and well-trained counsel, and when all relevant evidence is retained and tested. Mr. Bozella's case is not unique; we learn regularly of defendants released after new evidence exonerates them. We must do better. It is an outrage when an innocent person is punished. The guilty person is still on the streets, able to commit more crimes, which makes all of us less safe.

One of the key programs created in the Innocence Protection Act was the Kirk Bloodsworth Post Conviction DNA Testing Grant Program. 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. He was the first person in the United States to be exonerated from a death row crime through the use of DNA evidence.

This program provides grants to states for testing in cases like Kirk's where someone has been convicted, but where significant DNA evidence was not tested. The last administration resisted implementing the program for several years, but we worked hard to see the program put into place. Today, we will be hearing from Keith Findley of the Innocence Network, who will talk about the good that is coming from Bloodsworth grants in his state of Wisconsin and throughout the country.

Unfortunately, the vast majority of capital cases and other serious felony cases do not include DNA evidence that can determine innocence or guilt. For those cases to be fairly considered, each side must have adequate, competent, well-trained counsels. To that end, the Innocence Protection Act included the Capital Representation and Prosecution Improvement Grants. I look forward to hearing today from Andre de Gruy, Director of Mississippi's Office of Capital Defense Counsel, whose office received funds to train counsel in capital cases where there otherwise would not have been any resources for training.

Houston District Attorney Patricia Lykos has been a leader in encouraging post-conviction DNA and other forensic testing, and in advocating for effective defense counsel. I believe that the system works better for all involved when each side is represented well and all evidence is considered. Ms. Lykos agrees. I also look forward to hearing from Barry Matson, a prosecutor who has also recognized the need to seek the truth and who has been helpful in our efforts to reform our forensic system.

The Justice For All Act included several other very important programs, including new protections for victims of crime, funding for state and local governments for DNA testing and other forensic disciplines, and the Debbie Smith Rape Kit Backlog Reduction Act. The Debbie Smith Act authorized significant funding to reduce the backlog of untested rape kits, so that victims need not live in fear while kits languish in storage. I have worked hard to ensure that the Debbie Smith Act is fully funded, and I have been working hard to get to the bottom of disturbing findings that substantial backlogs continue. Debbie Smith and her husband Rob are here today. I welcome them back to the Committee.

Today, we will rededicate ourselves to doing what we must to ensure that we have a criminal justice system where the innocent remain free, the guilty parties are punished, and all sides have the tools, resources, and knowledge they need to advance the cause of justice.

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