



F17 Post-Conviction DNA Testing: A Law School and University Collaboration as a Model to Identify and Evaluate Post-Conviction Cases

Katherine A. Roberts, PhD, Hertzberg-Davis Forensic Science Center, Los Angeles, CA 90032-4210; Paula Mitchell, JD, Loyola Law School, Los Angeles, CA 90015; Cassandra Olsen, JD, Loyola Law School, Los Angeles, CA 90015; Nikki Herst-Cook, JD, Loyola Law School, Los Angeles, CA 90015; Mehul B. Anjaria, MS, MBA DNA Consulting LLC, Los Angeles, CA 90071*

Learning Overview: After attending this presentation, attendees will understand the California Forensic Science Institute-Loyola Project for the Innocent (CFSI-LPI) case review model, with particular emphasis on case prioritization, filing, and arguing motions requesting DNA testing, and strategic approaches to case resolution.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by providing attendees with a Law School-University collaboration model to tackle the logistical challenges related to post-conviction DNA testing.

The Postconviction DNA Testing Law (Senate Bill 1342) was passed in California in 2001. This law provides a mechanism for inmates to seek post-conviction DNA testing of evidence to ensure those wrongly convicted are able to prove their innocence through the use of newly developed technology. SB 1342 states that in felony conviction cases, government agencies must retain evidence for potential post-conviction DNA testing. With respect to retention of biological evidence, SB 1342 specifies agencies should retain all items that have a “reasonable likelihood” of containing biological evidence. However, it is virtually impossible for persons seeking to exonerate themselves through post-conviction DNA testing to meet the requirements of California’s statutory scheme without some legal and expert assistance. Under California’s DNA testing statute (Penal Code §1405), a request for DNA testing must comprise several criteria. These include a claim of innocence; the details regarding every reasonable attempt made to identify both the evidence to be tested; and, the specific type of DNA testing sought. Further, the statute requires an explanation as to how, in light of all the evidence, the requested DNA testing would raise a reasonable probability that the convicted person’s verdict or sentence would be more favorable if the results of DNA testing had been available at the time of conviction.

In 2019, the CFSI within the School of Criminal Justice and Criminalistics at California State University, Los Angeles, established a partnership with Loyola Law School’s LPI in order to review cases and locate and test evidence related to violent felony offenses where actual innocence may be demonstrated. The CFSI-LPI team was awarded Department of Justice (DOJ) funding under the 2019 Postconviction Testing of DNA Evidence solicitation to provide critical assistance to individuals convicted of a serious felony that meet specific criteria. Collectively, the CFSI-LPI team reviews violent felony cases to locate biological evidence for submission to a forensic laboratory for DNA testing to demonstrate their innocence or assist in their exoneration.

This presentation will provide an overview of the CFSI-LPI case review model, with particular emphasis on the identification and evaluation of cases that meet the criteria under CA Penal Code §1405 for post-conviction DNA testing. This presentation will also include a discussion of the prevalence of skewed eyewitness testimony, false or misleading forensic evidence, inadequate crime scene investigations, and false confessions among cases under review by LPI. Further, there will be debate that these long-standing issues in criminal investigation may be exacerbated when coupled with the pervasive, if unintentional, bias that recent literature shows may alter an investigator’s perception of the evidence. This presentation will also describe obstacles to this project design during the first year of the grant award and will demonstrate how the CFSI-LPI model provides an invaluable forensic science experiential learning experience where graduate students participate in a service-learning social justice project. Exposing forensic science graduate students to actual innocence cases provides them with a clearer understanding of how the justice system can sometimes make mistakes that lead to dire consequences.

Post-Conviction, DNA Testing, Law School-University Collaboration