



# ARIZONA CRIMINAL JUSTICE COMMISSION

## POSTCONVICTION DNA TESTING ASSISTANCE PROGRAM Fiscal Year 2008

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### **PROPOSAL ABSTRACT**

DNA analysis has been recognized not only as a tool to prosecute and convict the guilty, but as a method to exonerate the wrongfully convicted. Advances in DNA testing technology now allow for analysis not possible a decade ago, including new testing of biological evidence not available during the original trial. As such, many states—including Arizona—have enacted statutes that allow for postconviction DNA analysis.

A canvass of criminal justice stakeholders in Arizona indicates there is not a current backlog of postconviction DNA requests in crime labs, nor in the courts. Where there is a need identified: resources available to indigent inmates who could possibly benefit from postconviction DNA analysis and corresponding resources for prosecuting agencies addressing claims raised by these inmates.

In Arizona, indigent inmates seeking postconviction relief frequently turn to the nonprofit Arizona Justice Project. The Justice Project's mission is to identify and assist indigent Arizona inmates who have claims of actual innocence or manifest injustice. However, given resource limitations, the Justice Project is limited in its ability to take cases.

The Arizona Attorney General's Office represents the state in all postconviction capital cases. The Attorney General's Office also handles any postconviction proceedings involving non-

capital cases that were tried by attorneys from its office. Additionally, they handle postconviction proceedings when a County Attorney's Office has a conflict. The Attorney General's Office has worked on previous cases with the Justice Project where postconviction DNA testing has led to exoneration of an inmate, including developing post-mortem analysis.

The Arizona Criminal Justice Commission, as the State Administrating Agency, is applying to the NIJ Postconviction DNA Testing Assistance Program on behalf of the Arizona Attorney General's Office and the Arizona Justice Project. The Attorney General's Office is proposing to work with the Justice Project to assist in case review; investigative analysis and locating biological evidence in rape, murder and non-negligent homicide cases where DNA is relevant to postconviction claims. Both agencies will work collaboratively to document the results of exonerations in a post-mortem analysis and recommend policy changes where appropriate to reduce the likelihood of wrongful convictions.

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## ARIZONA CRIMINAL JUSTICE COMMISSION POSTCONVICTION DNA TESTING ASSISTANCE

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### **PROGRAM NARRATIVE**

#### **Purpose/Background**

Forensic DNA evidence has tremendous potential to solve some of our nation's most serious crimes by identifying criminals with incredible accuracy, and it has the ability to exonerate the innocent who have been falsely convicted and imprisoned. Having recognized the importance of DNA testing and the advances made in this scientific analysis with regard to exonerating the innocent, the state of Arizona enacted a statute (A.R.S. 13-4240) that allows for postconviction DNA analysis in cases in which a reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing.

#### **Needs Assessment**

An informal canvassing of the stakeholders that deal with postconviction DNA testing requests indicate that there is no current backlog of such requests in the state's crime labs; the state and municipal crime labs rarely do these analyses; and is there no flurry of requests pending in the judiciary. Where there is a need identified: resources available to indigent inmates who could possibly benefit from postconviction DNA analysis and corresponding resources for prosecuting agencies addressing claims raised by these inmates. And both the prosecution and the defense agree that documentation and analysis of the exonerations resulting from postconviction DNA analysis are crucial to preventing future erroneous convictions.

## **Proposed Work**

The Arizona Criminal Justice Commission, as the State Administrating Agency, is applying to the NIJ Postconviction DNA Testing Assistance Program on behalf of the Arizona Attorney General's Office and the Arizona Justice Project.

In Arizona, the nonprofit Arizona Justice Project is frequently the resource of last resort for indigent inmates seeking postconviction relief, including those cases with a need for DNA analysis. The Justice Project's mission is to identify and assist indigent Arizona inmates who have claims of actual innocence or manifest injustice. For the first ten years of its existence, The Justice Project relied almost entirely on volunteer contributions by law students, lawyers and law school faculty members. The Project subsisted on a budget of less than \$25,000 annually. After our initial application was submitted to NIJ last year, the Arizona Foundation for Legal Services & Education awarded the Justice Project the sum of \$150,000 for fiscal 2008. Those funds are specifically designated to be used in connection with the relocation of the administrative core of The Justice Project from the volunteer law firm of Osborn Maledon to the Sandra Day O'Connor College of Law at Arizona State University. While the Bar Foundation Grant has been very helpful to the long run stability of The Justice Project, funds under that grant are not available for the work to be done and services to be provided under this NIJ grant application. Nonetheless, for the reasons set forth below, the Justice Project believes that its work would be materially aided by the funds to be made available under this program.

The Justice Project celebrated its 10<sup>th</sup> anniversary in January 2008. Since its creation as a part of Arizona Attorneys for Criminal Justice (AACJ), this 501(c)(3) tax exempt Justice Project has devoted its almost entirely volunteer resources to the evaluation and redress of postconviction cases of actual innocence or manifest injustice. The Justice Project has received

and evaluated more than 2,500 inmate questionnaires. The Justice Project has at present approximately 50 cases either in court, before the Arizona Board of Executive Clemency, or under intense evaluation (these do not all include cases where there is biological evidence present). The cases are staffed with a faculty coordinator from either the University of Arizona James E. Rogers College of Law or the Arizona State University Sandra Day O'Connor College of Law, and teams of law students, aided by volunteer criminal defense lawyers.

While the Justice Project has achieved some notable successes and exonerations, the lack of resources has been a constant impediment. As noted above, the Justice Project has received annual grants from the Arizona State Bar's nonprofit foundation and has engaged in some fundraising work, but the annual budget has been inadequate to allow them to undertake and complete some of the more expensive and time-consuming case evaluations. Among the cases that have proved most difficult for the Justice Project have been those that involve DNA testing. Unlike some similar projects elsewhere in the United States, the Arizona Justice Project is not limited exclusively to DNA-based challenges. Also, while the Justice Project is not limited to homicide or rape cases, many of its most disturbing cases involve those crimes.

The Justice Project notes that three resource limitations compromise and slow its work. First, the Justice Project relies primarily on volunteers aided by a paid attorney intake coordinator to conduct initial case reviews. The location of records and the review of court files often prove to be a difficult first step. Second, many of these cases need the services of an investigator to track down additional records, witnesses, or possible contributors of biological evidence to a crime scene. The Justice Project relies on volunteer investigators or investigators who work at a reduced rate. Third, the Justice Project invariably experiences a delay at the stage where DNA analysis becomes necessary. Again, the Justice Project has called on experts and one

laboratory to donate time, but the lack of paid resources is often a barrier at this stage. The funds provided by the State Bar Foundation in 2008 do not change in any material way the basic challenges that the Arizona Justice Project encounters.

The Arizona Attorney General's Office is proposing to provide assistance to other prosecuting agencies in working on cases under review by the Justice Project to help track down and locate biological evidence in cases where postconviction DNA could possibly exonerate the innocent. A contract attorney will work as a liaison with the Justice Project to coordinate obtaining evidence for postconviction DNA testing, and will serve as a liaison to other prosecution agencies. The attorney will be available to help screen cases that warrant DNA testing and will work to facilitate an expeditious resolution of DNA claims pursued in postconviction proceedings.

Additionally, the contract attorney will document all postconviction cases throughout the state in which DNA testing is requested, together with the results of the testing. In cases in which relief is granted at the postconviction stage, including the Ray Krone case, the attorney will work with the Justice Project to prepare a post-mortem analysis of why a conviction resulted at trial and will assist in preparing materials and presentations for criminal justice training based on the lessons learned from those types of cases.

### **Goals and Objectives**

To further the goal of ensuring that forcible rape and homicide cases in which there are significant claims of actual innocence are afforded the opportunity for postconviction DNA analysis, the NIJ Postconviction DNA Testing Assistance Program funds will be utilized to assist with case review, including case screening and investigation; for lab costs associated with DNA testing; and for documentation of the process that includes a post-mortem analysis of the

successful steps in exoneration as a result of postconviction DNA testing, dissemination of the post-mortem report and policy recommendations to prevent erroneous convictions in the future.

The joint proposal has three goals with corresponding objectives: the first addresses the need for resources for pending evaluations of cases already identified as potential wrongful convictions. The second part of the proposal seeks funds to permit a more comprehensive canvassing and review of the inmate population in Arizona to locate all unresolved murder, non-negligent homicide and forcible rape cases where biological evidence is present and postconviction DNA analysis is needed, as well as a more thorough review of DNA cases heretofore reviewed. This canvassing process would include a one-time canvass of the public defender's offices in Arizona to make sure that they have identified every serious postconviction case that might benefit from further review of biological evidence. For the prosecution, the Attorney General's Office will conduct a canvass of the county attorney offices to determine if any postconviction DNA analysis cases are pending and offer any resources necessary.

The final component looks at the desirability of conducting post-mortems of DNA exonerations in Arizona in order to facilitate subsequent investigations and promulgate policy changes that could possibly reduce the number of wrongful convictions in the state of Arizona (and across the United States, as these post-mortems are used as case studies in an educational setting). The Attorney General's Office and the Justice Project have jointly contributed to a previous post-mortem analysis of an exoneration (Youngblood) resulting from DNA evidence that implicated another suspect and have widely disseminated these findings throughout the criminal justice community. The principals are currently engaged in developing a post-mortem analysis for the Ray Krone case with the goal to disseminate the findings in educational settings and make recommendations for changes as a result of the findings. The Krone post-mortem has



now been presented more than half a dozen times in the last six months and has been very favorably received. There is a great deal more collaborative work to be done between the Arizona Justice Project and the Attorney General's Office, but this post-mortem and others to be done in the future will become a substantial contributor to improvements in the administration of justice.

## **Methodology**

### **Pending Evaluations**

The Justice Project currently has case tracking in place and will report results as detailed below to the Arizona Criminal Justice Commission, as the oversight agency for grant recipients, the numbers of cases under review and the outcomes of the cases. (See Appendix A, Case Review Methodology).

At present, the Justice Project has 18 separate homicide and rape cases in Arizona in which there is an immediate need for biological testing. In each of these cases, there is a need for additional DNA testing. Each case also requires some additional case review and investigation. Also, an initial review of recent incoming requests to the Justice Project indicates there are a significant number of homicide cases where DNA testing would be valuable. With the advent of new technology available to older cases, there is an increased frequency with which requests for postconviction DNA analysis are coming to the Justice Project. The Justice Project has obtained estimates from a local private laboratory. A letter from that lab is attached (see Appendix B). Also, the Attorney General's Office is currently working on two pending cases that require DNA analysis. In addition, both the Justice Project and the Attorney General's Office would need the services of the Department of Public Safety crime lab and possibly one or more of the municipal

crime labs that may have jurisdiction over evidence. It is important to note that at the time of our initial application, The Justice Project had identified three cases deserving review. Since then, however, The Justice Project has been identifying and holding cases as they have come to the attention of the Project's Chair and its Attorney Intake Coordinator. This accounts for the increase from three to 18 cases being held for immediate review. The Justice Project has no way of knowing, prior to the review of each case, how many of these will prove to be meritorious and how many will not. It is also not possible to predict with accuracy what percentage of these will benefit from the resources of the DPS and local governmental crime labs and how many will be more amenable to evaluation with the aid of the private laboratory resources identified elsewhere in this application. What is clear is that there is a very considerable continuing need for funding to conduct these evaluations.

### **Case Re-evaluations and Review**

The Justice Project has received and at least preliminarily reviewed more than 2,500 cases over the last 10 years. Each case has data that has been entered into a database and a questionnaire and file exists in each case. Because of resource limitations, however, the Justice Project has declined many of those cases without further review. On many occasions, the inmate's case involved either a homicide or rape (or both) and the prospect that DNA testing today might exonerate him. In many of these cases the Justice Project has explained in declining to proceed that they simply had no resources adequate to the needs of the case. In an effort to provide some assistance, the Justice Project developed a self-help memorandum and forms so that inmates whose cases are rejected might seek their own DNA testing under Arizona's postconviction DNA testing statute. However, inmates who choose to proceed without counsel usually do not fare well.

With the aid of Postconviction DNA Testing Assistance funding, the Justice Project will conduct a re-review of its database and related case files to identify homicide and forcible rape cases that were previously declined to assess whether any of those cases deserve further examination based upon the need for postconviction DNA analysis. In this connection, the Justice Project would like to note that they have enjoyed good cooperation from several prosecution offices in locating records and conducting preliminary reviews. This has been a great aid in the past and the Justice Project would expect that same cooperation in this case review. The Attorney General's Office is seeking funding under this proposal to hire a contract attorney who will assist other prosecution agencies in responding to requests from the Justice Project.

Also included in this case review, the Justice Project would use Postconviction DNA Testing Assistance funding to undertake a one-time canvassing of public defender offices in Arizona to make sure that they have identified every serious postconviction case that might benefit from further review of biological evidence. In this connection, the Justice Project will work with the Arizona Public Defender Association as well as individual public defender offices, as well as with the membership of the Justice Project's own statewide Arizona Attorneys for Criminal Justice (AACJ) organization. This far-reaching canvass would be helpful in identifying and communicating with lawyers and investigators who may have been involved in these cases and should offer a reasonable level of confidence that all postconviction DNA cases that may need further review have been identified.

The Justice Project is requesting \$300,000 for full-time contract attorney services for 18 months based on a reduced rate of \$100 per hour for this review and re-examination of its cases, as well as documentation of all results and contribution to the completion of the Krone post-mortem analysis. For the same 18-month time period, the Justice Project is requesting \$225,000

for investigative services (\$75 per hour) to track down witnesses, previous attorneys and other pertinent evidence for forcible rape, murder and non-negligent homicide cases where biological evidence is available for testing.

The Justice Project recognizes that the state and local crime labs will be impacted by this casework; it's likely that some of the evidence being sought will be under the jurisdiction of the state and local crime labs. The Arizona Department of Public Safety (DPS) Crime Laboratory was empowered by Arizona's Postconviction DNA statute (ARS 13-4240) to provide postconviction DNA testing per the process detailed in the statute. The Arizona DPS Crime Laboratory has provided analysis on a number of these postconviction cases and will continue to accept and process postconviction cases.

The Arizona DPS Crime Laboratory can complete those cases where a previously unidentified DNA profile may need to be searched in the state or national DNA CODIS databases. Although there is no certain formula for predicting results, the Justice Project believes it reasonable to project up to 25 cases, roughly one percent of the total, will emerge from this review that will require biological testing (included in this estimate are the cases previously noted). The Department of Public Safety state crime lab, which has conducted postconviction DNA analysis in the past, estimates the average cost of these cases to be \$2,200 per case. These investigations are estimated to require a total of \$55,000 in laboratory costs for salary, supplies and related costs to process the cases, develop DNA profiles and search in CODIS as is necessary.

If a case does appear to have potential merit, the Justice Project will then confer with a forensic expert in the biological science area. In the past this has proved to be a significant bottleneck because the Justice Project has not had the resources to pay consultants and relied on

voluntary contributions of time from experts in the DNA/biological evidence field. Additional resources for expert consultation would be a necessary component of this project. In addition, the Arizona DPS Crime Lab DNA Analysts are available to consult on those cases where the Attorney General's Office and Justice Project concur that DNA would be beneficial.

Recognizing that the discovery of DNA evidence often requires expert consultation, the Justice Project is requesting \$110,000 dollars for expert analysis related to DNA evidence as outlined below:

(1) Assume that out of all the cases they find 25 that do involve DNA and that need intense consulting services (that's only one percent of the existing database).

(2) Of those, the consultants will probably be asked to look at 20—a few will be nonstarters because of evidence unavailability. If they secure 10 hours of consulting for each of those cases at the \$175 rate quoted by two of the four consultants, that's \$1,750 for each case, for a total of \$35,000.

(3) Assume that out of the 20 cases, the Justice Project determines that further DNA testing is necessary in half of those cases. At the rates they have been quoted, this would cost \$2,500 per case for a total of \$25,000.

(4) Assume that of those 10 cases, the Justice Project will go to court and file a postconviction relief petition in five cases. The Justice Project estimates it would spend \$10,000 per case, for a total of \$50,000.

The Justice Project works with inmates incarcerated in various prisons located in areas around the state. Justice Project attorneys will need to travel outside of Justice Project headquarters in Phoenix to interview inmates whose cases have been identified as meeting the

criteria for postconviction DNA analysis. The Justice Project is estimating 10 trips at 11 miles each. At the rate of 42.5 cents per mile, the Justice Project is requesting \$425 for travel expenses.

The Justice Project estimates that this particular NIJ-funded undertaking will require office space, supplies, and some level of administrative support. As noted above, in the past, all overhead support has been donated by the law firm of Osborn Maledon. Both of Arizona's state law schools have also contributed some space and modest resources. As a result of the State Bar Foundation's grant for 2008, the administrative core of the Justice Project has been relocated from Osborn Maledon to ASU. The Law School has made available space, supplies and administrative oversight personnel for the existing work of the Justice Project. Additional space, supplies and administrative support will be necessary in order to carry out the objectives of this NIJ-funded grant application.

In this connection, the possibility of securing additional space and support has been reviewed with the Dean and Administration at the Sandra Day O'Connor College of Law at ASU. In addition to the space the Justice Project now has at the law school, the Dean and Administration have identified additional space that might be used to accommodate the work to be done under this grant as well as the ongoing work of the Project. The law school location would be used by the contract attorneys who may be working on various phases of the project, by the administrative support and investigators who may be engaged in various facets of the project, and by law school students engaged in the process of evaluating and pursuing DNA-related claims. The space would also be sufficient to house and maintain the files and materials associated with this undertaking.

On behalf of the Justice Project, they would like to note that the development of this DNA grant application has resulted in a number of pleasing and unanticipated benefits. The

endorsement of the private investigators, the reduced fees offered by private DNA laboratories, and the offer of full cooperation by the Attorney General's Office are all good examples. The offer of space by the ASU College of Law carries another benefit that should materially enhance the product this project produces and its visibility. ASU is the home of a relatively new DNA-related forensic science program, and two of the country's leaders in the DNA field—Professors Michael Saks and David Kaye—are among the most well respected experts in the field. The co-location in the same physical facility cannot help but assure greater aid from this academic community.

To meet the overhead needs, the Justice Project is requesting a total of \$90,000 for office space rental costs at Arizona State University's Law School (\$5,000 per month for 18 months). The Justice Project is also requesting equipment and supplies (a copier, two laptop computers, three file cabinets, monthly telephone services, plus other miscellaneous office supplies) totaling \$14,220.

This proposal is attractive for several reasons. First, the new space that would be made available under this grant could still be secured at the same rate we have proposed in the past, i.e., \$5,000 per month for 18 months. The space itself would be located either in the new library at the law school or in the library storage facilities located beneath the Rotunda at the law school. As was the case with our earlier application, the location of these offices will allow participants to have access to the law library and other academic resources that might be unavailable in a commercial real estate setting.

Understanding the importance of management for a program of this size, funding in the amount of \$98,500 is being requested for project management support.

The entire budget proposed for Arizona Justice Project component is \$893,145.

The Arizona Attorney General's Office is proposing to work with other prosecuting agencies in responding to requests by the Arizona Justice Project to track down and locate biological evidence in cases where postconviction DNA could possibly exonerate the innocent. A contract attorney will work as a liaison with the Justice Project to coordinate obtaining evidence for postconviction DNA testing and will serve as a liaison to other prosecution agencies. In addition, the Attorney General's contract attorney would canvass the county attorney offices to determine if they currently have postconviction cases underway, offer legal and/or investigative services, and document the findings of any such cases. The contract attorney also will be available to help the other prosecution agencies evaluate cases that warrant DNA testing and will work to facilitate an expeditious resolution of DNA claims pursued in postconviction proceedings.

Additionally, the attorney will work with the Justice Project to document all postconviction cases throughout the state in which DNA testing is requested, together with the results of the testing. In cases in which relief is granted at the postconviction stage, the attorney will help prepare a post-mortem analysis of why a conviction resulted at trial and will assist in preparing materials and presentations for law enforcement training based on the lessons learned from those types of cases.

The Attorney General's Office is requesting \$300,000 for full-time contract attorney services and \$58,500 for a part-time contract investigator for 18 months. In addition, the Attorney General is requesting \$22,000 to help defray the costs of the DNA testing at the DPS state labs in cases that are currently pending before its office as well as to assist with cases the counties may currently have pending, estimated at a total of ten cases. The Arizona Attorney



General's Office, which enjoys a strong working relationship with Arizona's state and local crime labs, would serve as a conduit between the labs and the Justice Project.

As the Justice Project moves cases forward, the Attorney General's Office will also need to procure the services of DNA forensic experts. Following the assumptions listed above in the Justice Project's request, the Attorney General's Office is requesting \$2,500 per case for 10 cases, for a total of \$25,000. Assume that of those 10 cases, five cases will go to court for a postconviction relief petition. Following the Justice Project estimates, the Attorney General is requesting \$10,000 per case, for a total of \$50,000 per postconviction relief petition. The total request from the Attorney General's Office for DNA expert analysis is \$75,000.

The total cost of the Arizona Attorney General's component is \$455,500. The Attorney General's Office is not seeking administrative costs associated with the activities proposed under this grant.

### **Post-mortems**

The Arizona Justice Project, along with the Arizona Attorney General's Office, has been engaged in two extensive post-mortems of DNA exonerations in rape and homicide cases: One—the Larry Youngblood case—is now virtually complete. The second—the Ray Krone case—has become a useful teaching product within the last six months. In each case, the Justice Project has worked in close collaboration with the Attorney General's Office.

The Chair of the Arizona Justice Project, Larry Hammond, worked with the Attorney General's Chief Counsel for Capital Litigation, Kent Cattani, to develop a post-mortem for the Larry Youngblood case. The Youngblood post-mortem has been condensed to a PowerPoint program that has been used either by the Attorney General's Office, by the Justice Project or by both jointly as a teaching tool (see Appendix E).

The work of these detailed reviews of exonerations has proved to be extremely time-consuming, but the work product has justified the time and expense. The Krone post-mortem has received considerable attention in recent months in large measure because of the pro bono efforts of lawyers and staff at Osborn Maledon. Ray Krone was convicted of first-degree murder and sentenced to death in 1992. His sentence was subsequently set aside, and he was sentenced to life in prison. In a 2002 postconviction proceeding, Krone requested that evidence from the crime scene be tested using newly developed DNA technology, and the test results exonerated Krone and implicated another suspect. Following the conclusion of civil litigation for wrongful conviction, the Arizona Attorney General's Office and the Arizona Justice Project began work on a post-mortem analysis to derive lessons learned from the case to avoid similar wrongful convictions in the future.

The requests for funding for the contract staff for both the Attorney General and Justice Project above will help defray the costs of further enhancing the Krone post-mortem so that a DNA testing protocol and teaching tool could be made readily available. Among the issues still to be examined is the processing of biological evidence at trial and in postconviction proceedings and the reliability of expert testimony. The presence of both the prosecution and the defense allows for a more neutral review and analysis of the facts.

Given the scope of the complete project, the principals estimate that there would be four publications: one final report and three case-specific post-mortem reports. ACJC, the state administering agency for this grant, would make its public information officer available for writing, editing and publishing. Hard copies of the documents would be printed and bound in-house. In addition to the printed deliverables, electronic Portable Document Format (pdf) files of these reports would be burnt to compact disc for distribution at seminars and would be posted on

the Arizona Criminal Justice Commission web site. Electronic distribution would be cost-free. Thus, the costs for deliverables would be nominal and absorbed in the administrative costs of the grant, which are included in the budget detail.

### **Implications for Policy and Practice; Dissemination Strategy**

The key stakeholders in this grant currently work together on DNA policy issues. The Attorney General’s Office convened a DNA Forensic Science and Technology Task Force in 2004, which included the executive director of the Arizona Criminal Justice Commission and the defense community, among others (a final report is forthcoming). Stakeholders included in this grant application are currently convening a working group to review model legislation for implementing the provisions of the Justice for All Act statewide.

Further, the two grant applicants—the Arizona Attorney General’s Office and the Arizona Justice Project—have a proven track record for collaboration on DNA postconviction analysis cases. As mentioned earlier, the key personnel for each organization, the Attorney General’s Chief Counsel for Capital Litigation, Kent Cattani, and the Chair of the Arizona Justice Project, Larry Hammond, have taken lessons learned from a high-profile exoneration case and developed a post-mortem analysis. “Lessons Learned from Exoneration—the Larry Youngblood Case” provides details about how Larry Youngblood was convicted and imprisoned on kidnapping and child molestation charges, only to be exonerated years later when improvements in DNA technology allowed for testing that implicated another person in the crime. Both Cattani and Hammond have presented these lessons learned in educational settings to law students and practicing attorneys, as well as to law enforcement.

This request for funding includes dedicating resources to develop lessons learned with the intent to use the post-mortem analysis as an educational tool. Upon the conclusion of the grant period, the recipients will work collaboratively again to issue a report and work with criminal justice stakeholders to develop any legislative initiatives or promulgate changes that may be warranted. The final report will be published and disseminated to stakeholder groups including the Arizona County Attorneys and Sheriffs Association; the Arizona Prosecuting Attorneys Advisory Council; the Arizona Association of Chiefs of Police; and the Arizona Public Defenders Association. The Arizona Criminal Justice Commission will include the report on its web site.

### **Management Plan and Organization**

The Arizona Criminal Justice Commission (ACJC), as the State Administering Agency (SAA), is applying for and will manage the grant funds on behalf of the Arizona Justice Project. Upon receipt of grant funds, the ACJC will make sub-grant awards and execute grant agreements with the Arizona Attorney Generals' Office and the Arizona Justice Project. Following the intention of the grant to increase the number of postconviction cases (forcible rape, murder and non-negligent manslaughter) that are enabled to seek DNA testing, the grant agreement will include reporting provisions to measure:

- the number of cases reviewed to identify convictions for forcible rape, murder and non-negligent manslaughter where postconviction DNA testing could exonerate an inmate;
- tracking and documentation of cases that were reviewed (voluntarily or by court order or executive order), including an accounting of those identified as forcible rape, murder and non-negligent manslaughter where biological evidence is available for DNA testing;

- tracking and documentation of forcible rape, murder and non-negligent manslaughter cases in which DNA testing was ordered;
- results of DNA testing, including a numerical accounting of those that yielded a DNA profile, as well as documentation of any further judicial review as a result of the testing;
- dissemination of completed post-mortem documentation and policy recommendations resulting from the review and analysis funded under this grant.

### **Measurable results for each component**

*The expected results for the Justice Project's pending case component:*

- Immediate evaluation of the 18 cases currently pending with the Justice Project;
- Documented tracking of biological evidence relevant to postconviction DNA testing and subsequent DNA testing results;
- Request for further judicial review in any case(s) where the postconviction DNA analysis proves the conviction is questionable and actual innocence is likely;
- Closure for any case(s) where postconviction DNA analysis indicates the conviction was accurate.

*The expected results for the case re-evaluation and review component:*

- Review of cases in the Justice Project's database to separate out forcible rape, murder and non-negligent homicide cases where postconviction DNA could potentially exonerate an innocent inmate;
- Canvass of public defender offices in Arizona to make sure that every serious postconviction case that might benefit from further review of biological evidence has been identified;

- Seek postconviction DNA testing, either from governmental or private laboratories, for those cases identified as having biological evidence that could exonerate innocent inmates (including documentation and tracking of biological evidence relevant to DNA testing and subsequent DNA testing results);
- Request for further judicial review in any case(s) where the postconviction DNA analysis proves the conviction is questionable;
- Documentation of cases that result in exoneration;
- Closure for any case(s) where postconviction DNA analysis indicates the conviction was accurate.

*The expected results for the post-mortem component:*

- Refine and disseminate the Ray Krone post-mortem to criminal justice agencies throughout the state (and nation);
- Develop additional teaching materials from Krone post-mortem;
- Use lessons learned from Krone post-mortem to implement policy changes;
- Replicate this process for any case(s) that result in exoneration as a result of analysis conducted under funding from this grant.

**Conclusion**

The components of this joint proposal, taken together, support an application for \$1,399,693 for the Attorney General's Office and Justice Project, as well as allowable administrative costs. These funds that would be used to pay evaluators, investigators, costs associated with DNA testing and assessment and the production of deliverable reports.

It should also be noted that the Justice Project regularly measures the results of its work; they have a Justice Project Management Team and they regularly re-assess its work. The Justice

Project also provides quarterly reports on its work to the State Bar in connection with the annual grants received from that source. Now that the administrative core of the Project is located at ASU, we also expect to have the oversight and coordination services of the Project's Executive Director, Carrie Sperling

ACJC, as the SAA, is requesting \$36,304 for costs related to administering this grant. This includes personnel costs for the program manager that will administer the grant as well as the agency public information officer that will assist with writing and editing of all deliverables; will work to disseminate the final product and will also serve as the public information officer for this project. She will draft a communications plan that will include press releases(s) and fact sheet(s) upon the completion of the project and will disseminate to the local, state and national media. She will handle all media inquires and arrange interviews as requested. As she also serves as ACJC's legislative liaison, she will assist the principals in coordinating policy analysis and implementation. This amount also includes office supplies such as CDs and copier supplies that will be used to disseminate the reports. A budget detail is included.

# Appendices

## APPENDIX A

### Arizona Justice Project Case Review, Selection and Tracking Methodology

The Justice Project has been engaged in case review and selection for ten years. Our process is one that necessarily requires several steps:

(a) The inmate or a knowledgeable family member or former lawyer fills out a detailed questionnaire. That questionnaire is reviewed by our Executive Director and/or our Attorney Intake Coordinator and if the case appears to have merit, the process continues. If for any reason the inmate's case is not one that we can consider, a letter will be sent promptly to the inmate.

(b) Requests will be sent to predecessor counsel to confer with the Project about the case and particularly about the role or relevance of any biological evidence. We attempt to communicate with at least one knowledgeable previous lawyer so that we are not required to rely on the inmate or his/her family.

(c) If the case does appear to have potential merit, we will then confer with a forensic expert in the biological science area. In the past this has proved to be a significant bottleneck because we have not had the resources to pay consultants and have therefore found it necessary to seek voluntary contributions of time from experts in the DNA/biological evidence field.

(d) Assuming a favorable response from the consultant, we would then undertake to assemble a case evaluation and processing team. That team would be composed, typically, of a volunteer criminal defense lawyer, two or more law students, and a faculty coordinator. They would undertake a complete review of the file in the case to be sure that we have an accurate understanding of the role of biological evidence in the case and of the importance of that evidence in light of all other evidence in the case.

(e) Assuming that the case is still regarded as viable, we would at this point seek additional DNA testing and evaluation and would proceed to file a petition for postconviction relief.





CHROMOSOMAL  
LABORATORIES, INC.

Monday, November 20, 2006

Justice Project of Arizona  
Larry A. Hammond  
Osborn Maledon, P.A.  
2929 North Central Avenue, Suite 2100  
Phoenix, Arizona 85012-2794

Dear Mr. Hammond,

Thank you for taking the time this morning to discuss initiatives involved with the Innocence Project, the Justice for All Act of 2004 and specifically, TITLE IV-- INNOCENCE PROTECTION ACT OF 2004. As you are aware, our laboratory performs independent DNA testing, biological screening, case review and expert witness testimony. We hold an ISO 17025 based accreditation, through FQS-I which follows the FBI Quality Assurance Standards, and is approved by the National DNA Index System (NDIS) Procedures Board. It is the desire of our laboratory, located in North Phoenix to fully support any grant activities or other initiatives as best suits your offices, associates or The Arizona Criminal Justice Commission.

Operating from our 10,000 sq. ft. secure facility, our laboratory currently performs over 12,000 samples per year for DNA profiling using Identifiler from Applied Biosystems. We have the ability to double the current production rate without addition of capital equipment. Typically we are screening and developing profiles on casework samples in 15 to 30 calendar days. We work closely with our customers and are sensitive to their needs. Rush samples or changes in work scope that occur during processing of casework is routinely accommodated.

As a requirement for registration with the Government Service Association (GSA) recently we were required to submit our customer list to an independent agency, Open Systems, for the purpose of performance evaluation. Our Past Performance Evaluation (PPE) Report score of 94 was in the top 20% of all PPE scores, compared to other similar laboratory company's. Our most recent technical audit, performed through FQS-I resulted in no findings, and our scoring on the past 2 years of independent proficiency testing is 100%

In the course of our call, typical pricing scenarios were also discussed. Pricing each case is generally a unique event that would depend on the nature of the offense and the judgment of the investigator. Although homicides will be more



variable than sexual assault cases (we recently finished a 20+ sample homicide case), we will give 2 case scenarios for purposes of estimation:

**Sexual assault with suspect**

Reference samples-2 (suspect and victim)	\$175 per sample
Semen screen	\$ 95 per sample
Evidence Sample with Differential Extraction	\$400 per sample
<b>Total Sexual assault victim &amp; suspect</b>	<b>\$ 845</b>

**Homicide case with suspect**

Reference samples-2 (victim & suspect)	\$175 per sample
Biological evidence screen (assume 3 pieces)	\$ 95 per sample
Evidence Samples (assume 3)	\$ 300 per sample

**Total cost for 2 suspect & 3 evidence sample case      \$ 1535**

These 2 examples should give a basic feel for the costs involved in two different types of cases. Each case needs to be considered unique. I hope this serves to tie up any loose ends from our conversation. I am also attaching a copy of our current Statement of Qualifications and Forensic Analytical Service Guide. If there is any additional information you may need regarding our company, please feel free to contact Dr. Vince Miller, Vladimir Bolin, our CEO or myself at your convenience.

Respectfully,

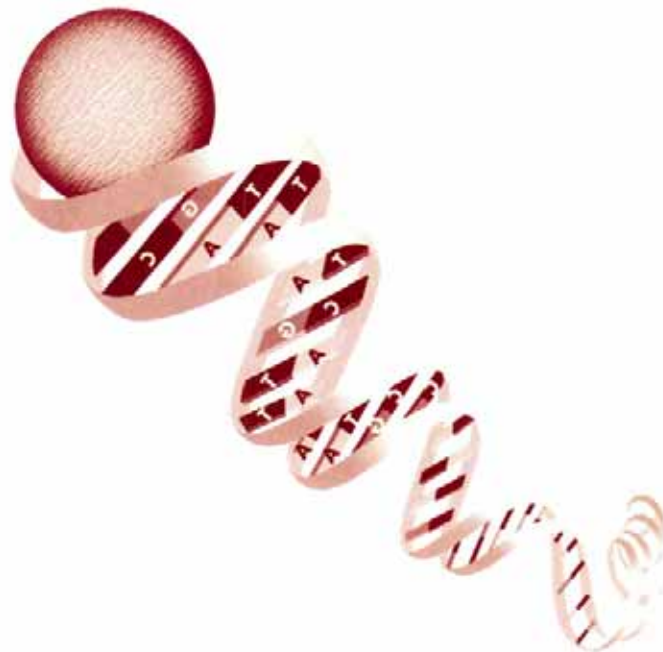
Jim Bentley  
Vice President

Cc. V. Bolin  
V. Miller



# CHROMOSOMAL LABORATORIES, INC.

## Statement of Qualifications



*Setting the Standard for Quality DNA Identification*



**aa Accredited**

[www.chromosomal-labs.com](http://www.chromosomal-labs.com)  
877.434.0292



## Company Background

Chromosomal Laboratories, Inc is a leading analytical laboratory specializing in DNA analysis for forensic casework, convicted offender databasing, paternity, family reconstruction, ancestry, and research and development.

*Setting the Standard for Quality  
DNA Identification*



## Quality Built-In

A core philosophy at Chromosomal Laboratories is “Quality Built-In”. This means that every step of the process, from sample collection to results reporting, is critically designed, evaluated and monitored. This translates into the highest quality possible.

The management and technical team at Chromosomal Laboratories has over 100 years of successful experience in the laboratory testing industry. The diversity of the team's experience and technical talent is unparalleled and ranges from paternity and forensics to laboratory analysis of environmental bacteria and fungi, anthrax and related bioterrorism agents, chemical contaminants, vaccine development, expert witness, consulting, research and development and the manufacture of medical devices.

*With vision and excellence, service and quality,  
Chromosomal Laboratories delivers the finest results.*

## Quality System

The Quality System at Chromosomal Laboratories is modeled after ISO 17025:2005, General Requirements for the Competence of Testing and Calibration Laboratories, the international benchmark for approving the competence of testing and calibration laboratories. The Chromosomal quality program has been engineered to meet the diverse requirements of several accreditation bodies and standards, including AABB, ASCLD and DAB. The laboratory complies with applicable industry guidelines, including the Quality Assurance Standards for Forensic DNA Testing Laboratories and Convicted Offender DNA Databasing Laboratories issued by the FBI Director.

## Accreditations

In demonstration of excellence, Chromosomal Laboratories participates in a number of national and international accreditation programs, including the American Association of Blood Banks (AABB), Forensic Quality Services International, (FQS-I) and the New York Department of Health. These programs provide external review and approval of the laboratory systems and quality

### Summary of Accreditations, Memberships & Proficiency Testing

Organization	Description	Identification Number
U.S. Department of Health and Human Services	Federalwide Assurance for the Protection of Human Subjects	FWA00007607
American Association of Blood Banks	Relationship Testing	Accredited Relationship Testing Facility
College of American Pathologists	DNA Database Proficiency Testing	719101501
Quality Forensics, Inc.	AABB/CAP Parentage Testing	N/A
	DNA Proficiency - Casework	
Collaborative Testing Services	DNA Proficiency - Database	U6012
	DNA Proficiency - Casework	
Forensics Quality Services - International	DNA Proficiency - Database Forensic Accreditation	06-FQS-I-03
New York Department of Health	ISO/IEC 17025:2005 FRA 1 & FRA 2 Parentage	PFI 8237

## Forensic Accreditations

### Forensic Quality Services International (FQS-I)



Chromosomal Laboratories is accredited by Forensic Quality Services International (FQS-I) to perform biological screening, DNA analysis for forensic casework and DNA analysis for CODIS databasing. Through this ISO 17025 accreditation, our forensic department provides validated, court admissible testing to the legal community, law enforcement, and private investigators. The laboratory has validated procedures for both autosomal STRs and Y-STRs.

Forensic Quality Services International (FQS-I) is an independent corporation established in 2003 by NFSTC. FQS-I is a separate business unit within FQS, whose sole purpose is accreditation of forensic laboratories to ISO 17025. FQS-I is the longest established provider of ISO accreditation to forensic science testing laboratories in the United States. It is one of the accrediting bodies recognized by the National DNA Index System (NDIS) Procedures Board and the only one that has completed the rigorous scrutiny of operations required for recognition by the National Cooperative for Laboratory Accreditation.

FRA-1.0 is based on ILAC G19, and is specific to "Forensic Requirements for Accreditation" for laboratories involved in forensic testing. FRA-2.0 is an audit document based on the Quality Assurance Standards for DNA Analysis for DNA Testing laboratories and Convicted Offender DNA Databasing Laboratories.

### State of Texas DPS Accreditation

Chromosomal Laboratories, Inc has been granted Full DPS Accreditation by the Director of the Department of Public Safety for the discipline of Biology.



## Paternity and Relationship Testing Accreditations

### American Association of Blood Banks (AABB)



Chromosomal Laboratories, Inc is an American Association of Blood Banks (AABB) Accredited Relationship Testing Facility. AABB is an international association involved in activities related to transfusion and cellular therapies including transplantation medicine. Since its beginning in 1947, AABB continues to support the highest standards of medical, technical and administrative performance, scientific investigation, clinical application, standard setting, accreditation and education.

### State of New York

Chromosomal Laboratories, Inc is authorized to perform DNA Parentage/Identity Testing on samples originating in the State of New York by the New York State Department of Health, PFI: 8237.



### U.S. Department of Homeland Security - Immigration Testing



The U.S. Department of Homeland Security requires that DNA testing must be performed by an American Association of Blood Banks (AABB) accredited laboratory. As an AABB Accredited Testing Facility, Chromosomal meets the requirements for Immigration Testing for the U.S. Department of Homeland Security.

## Proficiency Testing

In demonstration of its commitment to quality, Chromosomal Laboratories participates in multiple third party proficiency testing programs for paternity, forensic casework, forensic databasing, and Y chromosome analysis. The Chromosomal Program far exceeds any regulatory requirement.

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## Validation

Validation is the process of demonstrating that a laboratory procedure is robust, reliable, and reproducible in the hands of the personnel performing the test in the laboratory. A robust method is one in which successful results are obtained at a high frequency. A reliable method produces accurate results that correctly reflect the sample being tested. A reproducible method produces the same or very similar results each time a sample is tested. All three types of methods are important for techniques performed in DNA laboratories. All methods employed at Chromosomal Laboratories in the normal course of paternity and forensic analysis have undergone rigorous peer reviewed validations.

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## Facilities

Chromosomal Laboratories, Inc is strategically headquartered in Phoenix, Arizona, an area rich in biotech industries and home of the Translational Genomics Research Institute and the International Genomics Consortium.

Chromosomal Laboratories operates from its newly constructed 10,000 square foot facility, designed with the latest ventilation and security systems ensuring the highest degree of sample integrity.

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## Equipment

Reliable and accurate results are largely dependent on the availability of quality instrumentation and equipment redundancy. Chromosomal Laboratories has invested in quality state of the art instrumentation with a capacity to process over 15,000 samples per month. A partial list of major instrumentation is summarized below.

### Summary of Major Instrumentation

ABI PRISM 7000 Sequence Detection System	Digital Video and Photography Imaging System
ABI PRISM® 3100 Genetic Analyzers	400W SPEX MiniCrime Scope
ABI GeneAmp® PCR System 9700	Luminex 100 System

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## Laboratory Information Management Systems

Chromosomal Laboratories operates a proprietary Laboratory Information Management System for management of client information, results, turn around time monitoring and internal chain of custody. All samples are labeled using a barcode system to ensure sample integrity.

## Laboratory Team

Chromosomal Laboratories is staffed with a seasoned team of professionals with over 100 years of combined laboratory experience. The technical manager and the quality manager are both members of executive management and help ensure quality by design.

### **Vladimir Bolin Chief Executive Officer**

Mr. Bolin has over seventeen (17) years of experience in creating and managing multi-discipline laboratories. Mr. Bolin is the co-founder and former CEO of Aerotech Laboratories, Inc, a multi divisional company offering microbiological and chemical analysis of indoor air quality, food, pharmaceuticals, medical devices, drinking water, and hazardous waste. Aerotech also had specialized divisions for bioterrorism testing and research and development. Founded in 1993, Aerotech grew to be the largest indoor air quality testing laboratory in the world. Aerotech Laboratories was purchased by the Severn Trent Group of companies in 2004. Prior to Aerotech, Mr. Bolin was President of Bolin Laboratories, Inc., a family owned company founded in 1959. During his tenure, he directed all laboratory operations, including the clinical and veterinary microbiology, environmental and research & development arms. Mr. Bolin has a degree in Molecular and Cellular Biology from the University of Arizona.

### **Nicole Bolin - President**

Mrs. Bolin has over five (5) years of senior and technical laboratory management experience in microbiology, mycology, molecular genetics, reproductive physiology, quality assurance and information technologies. Mrs. Bolin is certified in radon measurement and analysis and author of numerous technical articles. Utilizing her quality assurance and information technologies experience, Mrs. Bolin served as technical architect for numerous modules of a proprietary Laboratory Information Management System (LIMS). Mrs. Bolin is degreed in Animal Science from the University of Illinois.

### **R. James Bentley - Vice President**

Mr. Bentley began his career as a clinical chemist for a commercial laboratory that is now part of the LabCorp group. In this capacity Mr. Bentley established the first emergency toxicology laboratory in Houston Texas, serving all major hospitals and select crime laboratories. He became Laboratory Director of an 80 person laboratory and was recognized technically as a General Supervisor by the Center for Disease Control.

During the 1980s he created two startup environmental laboratories that still exist today. His duties, which grew through acquisitions by the Corning Laboratory Group, resulted in the responsibility as VP/General Manager, responsible for 700 employees. Mr. Bentley worked later as a consultant, aiding in the incubation and development of technical start-ups, including an animal genetics laboratory acquired by Celera Corporation. In the past 4 years before joining Chromosomal Laboratories, Mr. Bentley was Vice President of Aerotech Laboratories with responsibilities in the environmental, industrial hygiene and WMD testing divisions. He has a degree in chemistry from Arizona State University. He is currently a Federal Advisory Committee(FACA) Board member to the USEPA. He was appointed to this prestigious position by current Health and Human Services Secretary, Michael Leavitt.

**Vince Miller, Ph.D. - Vice President & Chief Technical Officer**

Dr. Miller has over twenty five (25) years of laboratory experience in academia and industry. He is the co-inventor on multiple patents and co-author of over 19 peer-reviewed publications and numerous non-peer reviewed articles. He has been the recipient of a grant from the National Institutes of Health and has designed and led cutting edge developments at private research institutions. Dr. Miller is a renowned educator and a recognized scientific expert witness. Dr. Miller has multiple advanced degrees in Biology and Plant Pathology.

**Julie Golden, M.S. - Forensic DNA Technical Leader**

Ms. Golden has over nine years of laboratory, management and consulting experience in the field of DNA forensics. She is an approved DNA Auditor and has qualified as a court expert in molecular biology and DNA analysis in over 16 jurisdictions. Ms. Golden has a BS in Biochemistry and a Masters Degree in Pathology.

**Barbara Bolin - Director of Microbiology**

Barbara has over forty-five (45) years of laboratory and management experience in the fields of microbiology, virology, mycology, immunology and research and development.

During the course of her scientific career Barbara was instrumental in the pioneering development of the world's first diagnostic test procedure for screening the world's blood supply for the Hepatitis B virus. At the local level, she was the first researcher to isolate the rare and deadly amoeba, *Naegleria fowleri*, from Arizona water supplies. In response to the anthrax bioterrorism attacks in late 2001, Barbara led the development of one of the countries few private testing labs capable of offering a complete line of laboratory services for bioterrorism agents.

**Paul Cochrane - Vice President of Business Development**

Mr. Cochrane is a seasoned business development executive with over twelve (12) years of experience at numerous leading organizations in a diverse group of industry segments. Most recently, Mr. Cochrane was Vice President of Business Development for Aerotech Laboratories, Inc. During his seven-year tenure, Mr. Cochrane created a marketing department and strategic development plan, which helped grow a small company of less than ten employees into the largest firm within its industry segment. Mr. Cochrane is internationally renowned and an often requested speaker at business development forums. Mr. Cochrane has a degree in Marketing from Arizona State University.



*Setting the Standard for Quality DNA Identification*



**Chromosomal Laboratories, Inc.**  
Scope of Accreditation  
06-FQS-I-03

Category	Sub Category	Analytical Techniques
Biology	Biological Screening	☐ 1.1, 1.2, 4.1, 5.0
	DNA in forensic casework	☐ 2.1.1, 2.1.2, 2.1.3, 2.2, 3.1, 5.0
	DNA databasing for CODIS	☐ 2.1.1, 2.1.3, 2.2, 3.1, 5.0

**Analytical Techniques**

1.0 Chemical Screening Tests
1.1 Immunoassay
1.2 Color
2.0 Genetic Analysis
2.1 DNA-PCR
2.1.1 Autosomal STR
2.1.2 Y STR
2.1.3 q-PCR
2.2 Data analysis
3.0 Electrophoresis
3.1 Capillary
4.0 Microscopy
4.1 Optical
5.0 General laboratory procedures

**Chromosomal Laboratories, Inc.**

1825 W. Crest Lane  
Phoenix, AZ 85027

has been assessed by the  
**Forensic Quality Services-International Division of  
Forensic Quality Services, Inc**  
and found to  
comply with the requirements of ISO/IEC 17025:2005 and Forensic  
Requirements for Accreditation (FRA 1 and FRA 2)

**The scope of the accreditation is identified in the FQS-I  
Register of Accredited Laboratories**

**This Certificate Number is 06-FQS-I-03 and expires 2008/04/25**



*Patricia C. Wojtowicz*  
Patricia C. Wojtowicz  
Manager of Accreditations



**aa**  
**BB** Accredited

**aa**  
**BB** Accreditation

*Chromosomal Laboratories, Inc.*

*having been assessed by AABB, has been found to meet  
the requirements of applicable Standards of this organization and therefore is granted this*

**CERTIFICATE OF ACCREDITATION**

for the following activities:

*Relationship Testing Activities*

*In Witness whereof the undersigned, being duly authorized, have caused this Certificate  
to be issued and the AABB Corporate Seal to be affixed.*

*Certificate Expires*  
12/30/2007

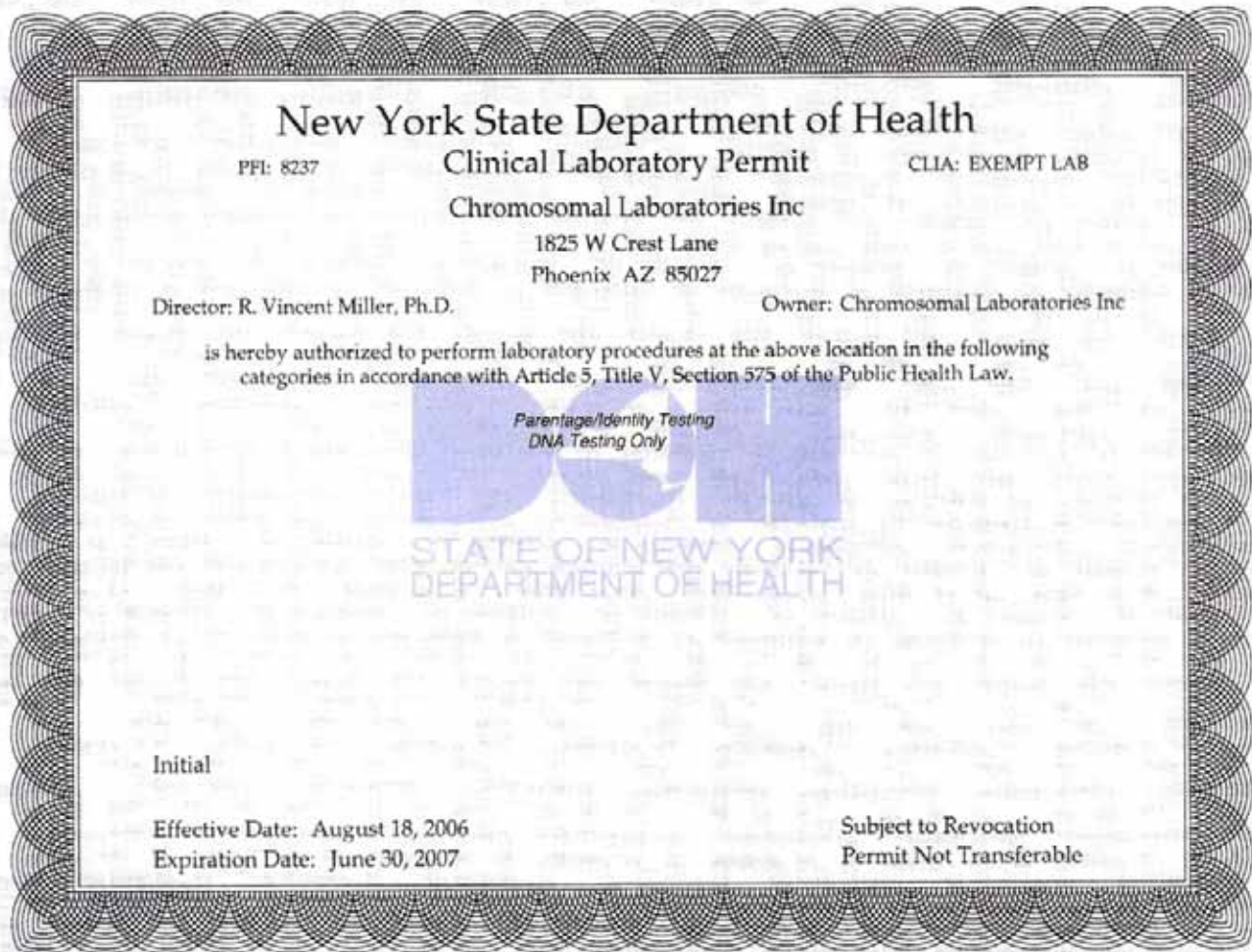
*Christopher D. Hickey*

President, AABB

*William Adams, MD, J*

Chair, Accreditation Program Committee





POST CONSPICUOUSLY

Serial: LAP 35507

Chromosomal Laboratories is one of a select group of laboratories in the United States authorized by the New York State Department of Health to perform parentage testing using DNA on cases originating from the State of New York.

Chromosomal Laboratories obtained this approval after rigorous inspection and proficiency testing by the New York Department of Health.



CHROMOSOMAL  
LABORATORIES, INC.

# Forensic Analytical Service Guide



2006

*Setting the Standard for Quality DNA Identification*



[www.chromosomal-labs.com](http://www.chromosomal-labs.com)  
877.434.0292



### About Chromosomal

Chromosomal Laboratories, Inc is a progressive analytical laboratory specializing in the genetic characterization of humans and animals. Our scope of services includes forensics, paternity, ancestry, and research and development.

The management and technical team at Chromosomal Laboratories has over 100 years of successful combined experience in the laboratory testing industry. The diversity of the team's experience and technical talent is unparalleled and ranges from forensics and paternity to analysis of anthrax and other bioterrorism agents, expert witnessing, consulting and research and development.



### Forensic Evidence Screening

Chromosomal's advanced evidence screening laboratory is staffed with seasoned forensic scientists and equipped with an arsenal of validated techniques and technologies to afford rigorous and comprehensive screening. Chromosomal Laboratories is equipped with first class instrumentation, including digital imaging systems for both macroscopic and microscopic evidence documentation and a 400W SPEX Mini Crime Scope.

Screen	TAT	Price
Semen and Cellular Material	10 -14 days	\$95.00
Blood (Presumptive)	10 -14 days	\$95.00
Hair	10 -14 days	\$95.00
Saliva Presumptive	10 -14 days	\$95.00

### Short Tandem Repeat (STR) - Identifiler

Designed for forensics and paternity testing, the Identifiler kit from Applied Biosystems simultaneously analyzes 15 STR loci as well as the gender determining marker Amelogenin. The loci include the 13 CODIS loci as well as two additional markers, D2S1338 and D19S433. The data generated from this profile exceed the recommendations of CODIS, the European Network of Forensic Science Institutes (ENFSI) and Interpol organizations. This profile can achieve an average probability of identity of  $1.31 \times 10^{-18}$  to  $3.62 \times 10^{-17}$  in select populations.

Test	TAT	Price
Reference Sample	10 -14 days	\$175
Evidence Sample (Non differential extraction)	10 -14 days	\$300
Evidence Sample (Differential Extraction)	10 -14 days	\$400
Bone	Quote	Quote
Rush Fee	5-7 days	\$500 per sample

### Y-STR - Yfiler

Y-chromosome STRs have a diverse range of applications in the science of human identification, ranging from paternity and ancestral genealogy to missing persons and the forensic identification of male DNA from sexual assault and other criminal cases.

The Yfiler assay, from Applied Biosystems, analyzes 17 Y-chromosome STR regions that are variable in length and are widespread throughout the human genome. This variability allows discrimination among individuals in a population, useful for identification in forensic, paternity and ancestral studies. The regions analyzed include the core set of nine loci defined as the European Minimal Haplotype and the two loci recommended by the Scientific Working Group on DNA Analysis Methods (SWGAM). Six additional highly polymorphic loci are also included, significantly increasing the discrimination capacity of the analysis.

Test	TAT	Price
Reference Sample	10 -14 days	\$250
Evidence Sample (Non Differential Extraction)	10 -14 days	\$250
Evidence Sample (Differential Extraction)	10 -14 days	\$350

### Mitochondrial DNA


Select types of evidence, such as hairs without roots or samples that contain highly degraded DNA, often do not contain sufficient nuclear DNA to yield results with conventional STR systems. Incorporating mtDNA testing as an alternate analytical strategy can often yield valuable information. While nuclear DNA testing is the primary method of choice, a result from mtDNA testing can be more useful than no result at all. mtDNA analytical methods are currently in validation at Chromosomal Laboratories. For more information, please email [info@chromosomal-labs.com](mailto:info@chromosomal-labs.com).

Test	TAT	Price
Reference Samples	Inquire	Inquire
Evidence Samples	Inquire	Inquire

### Biological Evidence Collection Kit

The value and defensibility of a laboratory forensic report is dependent in part on evidence collection procedures and techniques and on an unbroken chain of custody. Failure to properly or adequately collect, transport or store biological evidence could compromise evidentiary value.

The Biological Evidence Collection kit is designed to provide convenient and organized access to the basic supplies and tools for biological evidence collection.

Kit Description	Price
Each kit contains one tool box style case, one plastic distilled water dropper bottle, six polystyrene vials with snap cap (2-55.4 ml, 2-73.9 ml, 2-110.9 ml), four sterile disposable safety scalpels, twenty sterile swabs and swab boxes, twenty coin envelopes, five disposable face masks, one pair each of forceps and scissors, twenty biohazard contamination labels, one reporter's spiral notebook pad, eighty evidence labels, one black fine tip sharpie pen, one flashlight and a reprint of NIJ's "What Every Law Enforcement Officer Should Know About DNA Evidence"	<p>\$69.99</p> 

### Case Review, Expert Witnessing and Consultation

The power of DNA has emerged as a powerful tool for crime scene investigations across the globe. Its unparalleled power has revolutionized the criminal justice system and provided a mechanism to close cold cases and exonerate the falsely accused.

The inherent complexity and sophistication of DNA techniques requires experience and expertise for accurate interpretation. Chromosomal Laboratories provides expert consultation for review of DNA results from other laboratories, expert witnessing services, and preparation for depositions or trials and re-analysis of DNA. For more information, please call or email [info@chromosomal-labs.com](mailto:info@chromosomal-labs.com).

Description	Price
Case Review	\$200/hr
Discovery Preparation	\$175/hr
Consulting/Deposition	\$250/hr
Expert Testimony	\$1750 day+expenses
Training Programs	Inquire

### Quality System

The Quality System at Chromosomal Laboratories is compliant with ISO 17025, General Requirements for the Competence of Testing and Calibration Laboratories, the international benchmark for approving the competence of testing and calibration laboratories. The Chromosomal quality program has been engineered to meet the diverse requirements of several accreditation bodies and standards, including AABB, ASCLD, and DAB. The laboratory complies with applicable industry guidelines, including the Quality Assurance Guidelines for Forensic DNA Testing Laboratories. The forensics laboratory is accredited by Forensic Quality Services - International (FQS-I) which is the longest established provider of ISO accreditation to forensic science testing laboratories in the United States. It is one of the accrediting bodies recognized by the National DNA Index System (NDIS) Procedures Board and the only one that has completed the rigorous scrutiny of operations required for recognition by the National Cooperative for Laboratory Accreditation.

FRA-1.0 is based on ILAC G19, and is specific to "Forensic Requirements for Accreditation" for laboratories involved in forensic testing. FRA-2.0 is an audit document based on the Quality Assurance Standards for DNA Analysis for DNA Testing laboratories and Convicted Offender DNA Databasing Laboratories.



- Biological Screening
- DNA in Forensic Casework
- DNA Databasing for CODIS



### Terms and Conditions

All services are performed in accordance with our current terms and conditions, which are located at [www.chromosomal-labs.com/termsconditions.html](http://www.chromosomal-labs.com/termsconditions.html). Forensic evidence shall be returned to the client following completion of analysis. Fees are subject to change. TAT (turn around time) is the typical number of business days after sample receipt, in which results will be available.

## MEMO

To: Mary Marshall  
From: Larry Hammond  
CC: Kent Cattani  
Date: February 12, 2007  
Re: NIJ Grant

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Since our last communication, I have been gathering the information from our end that I thought might be helpful. Here is what I have right now.

### **(1) Investigators**

After canvassing the investigators that we typically use, I have obtained agreements from the firms of Rich Robertson Consulting & Investigations and Inter-State Investigative Services, Inc. Both firms have extensive experience in working with The Justice Project. They would make experienced investigators available to the work on this Grant at a rate below their regular hourly rates in recognition of the public interest component of this Project. Both firms have agreed to work at a rate of \$75 per hour. Since the cases we will be evaluating are spread throughout the State of Arizona, it is wise for us to have at least two and possibly more investigators available at this rate. At this rate the full-time equivalent for 18 months of investigative services would total of \$225,000.00. I do not know if our needs would actually reach this level, but that is the number my arithmetic suggests.

The grant review process has also produced another, for our Justice Project, remarkable development. After meeting with the leaders of the Arizona Association of Licensed Private Investigators (AALPI), that organization has elected to embrace formally The Justice Project and a Resolution to that effect was promulgated by the Association this week. A copy is attached. (Ex. A) You will note that the Association has stated that it is prepared to provide services to The Justice Project on a pro bono and reduced fee basis. I now strongly believe that to whatever extent we need additional resources, we will be able to obtain them. This may also ameliorate the estimate above and might justify a lower estimate.



## **(2) DNA Consultants**

We have conferred with four DNA consultants and I am pleased to be able to represent that all four have agreed to provide services to The Justice Project and to this Grant at rates below the regular hourly rates of these consultants. Specifically, we have the following offers.

### **(a) Professor Elliott Goldstein**

Professor Goldstein is a tenured, senior member of the faculty in the Biology Department at Arizona State University. He has worked both with my law firm and with me personally in the past. He has offered his services as a consultant to the Project at a rate of \$75.00 per hour – dramatically below any reasonable market rate with which I have become familiar.

### **(b) Professor William Thompson**

Professor Thompson is now the Chair of the Department of Criminology, Law & Society at the University of California, Irvine. His curriculum vita is attached (Ex. B). Professor Thompson may be one of the most well known consultants in DNA and in wrongful convictions in America. He has very graciously offered his services as a consultant without charge. He has also brought to our attention the possibility that on particular projects we may find it appropriate to call on him and to in some reasonable way compensate for the time of his students who may be asked to assist in particular undertakings. I believe if we were to provide reimbursement for his students, given our experience in the past, the hourly rates for those people would be quite small by comparison (anywhere from \$10 to \$30 per hour). I believe this is a most appropriate offer and he expressed a particular interest in assisting us in any post-mortems of these DNA cases which we undertake.

### **(c) Chromosomal Laboratories, Inc. and R. Vince Miller, Ph.D.**

As you already know, the Chromosomal Laboratories and its Vice President and Chief Technical Officer have offered to provide their services in performing DNA-related work. I have asked Dr. Miller specifically whether he would also be prepared to do consulting on behalf of The Justice Project and this Grant and he has acknowledged that he would be more than happy to do so and will do so at a rate below the usual market rate. He has offered to do work for the Project at the rate of \$175.00 per hour.

(d) Human Identification Technologies, Inc.

Human Identification Technologies, Inc. (HITI) has also offered to perform DNA-related testing and consulting for us. They are a relatively new laboratory in California. I am well acquainted with other criminal defense lawyers who have been satisfied with the use of this relatively new laboratory. They are in the process of obtaining their ASCLAD International certification. They are located in Redlands, California. They have been very generous in offering to provide to us their services. This laboratory has also offered to provide consulting services to this Project at a discounted rate of \$175/hour and has agreed to perform laboratory testing at the rate of \$700 per sample – a very good discounted rate. The confirming letter from HITI is attached as Ex. C, and the materials describing this Laboratory are available for review at the Justice Project's office.

**(3) Publication**

We have consulted with the publishing firm that we have used for Justice Project publishing and for publishing in connection with the work of the law firm of Osborn Maledon. The firm of `condit.west.creative LLC` has given us estimates for the production of both a final report and separate reports of the post-mortems of DNA evaluations.

We estimate that there might be 4 publications: one final report and 3 post mortems. We assume that each report would result in a 16-page publication with appropriate photography, copywriting and production.

The components of the publication estimate include the work of our photographer, Shellymarieimages. She has always worked for us at the phenomenal daily rate of \$175.00. She also does work for the Arizona Republic at a daily rate of \$2,500.00. She has agreed to do the photography for us at whatever rate we think appropriate and we have agreed upon \$375.00 per hour—still a stunning discount from her regular commercial rates. Using these totals, a 16-page document would be a cost of \$9,235.00. The total of four publications, then, would total \$36,940.00 (the estimate from the printing company, Artistic Printing & Specialty Advertising, which works in conjunction with `condit.west.creative LLC`, is attached as Ex. D).

**(4) Attorneys**

We have also considered the need for the equivalent of one and a half attorneys to work for the Project. Again, it is our judgment that the most efficient approach may be to retain attorneys on a contract basis. Our experience has suggested to us that we could obtain the services of competent counsel to assist us at a rate comparable to rates paid for complex cases under the Federal

Criminal Justice Act. We also have found that competent criminal defense lawyers will agree to work with our Project at rates slightly lower than the prevailing CJA rates for capital cases. With those considerations in mind, we have used the rate of \$125.00 per hour. If that were the rate used for the equivalent of one attorney for 18 months, the total would be \$375,000.

The size of this number suggests to us that we should at least consider the possibility of simply hiring one full-time attorney for a year and a half. Using rates comparable to those paid to State prosecutors and local public defenders and expecting a reasonable level of experience, we believe that an attorney could be hired to fill this position at a rate of approximating \$100,000 per year. An overhead factor would need to be added in as well.

1523601

# Ex. A



## Arizona Association of Licensed Private Investigators

### 2007 Board Members

John R. W. MacIntire, Jr.  
MacIntire & Associates  
Tucson, AZ  
*President*

George Eleftheriou  
G.E. Investigations  
Phoenix, AZ  
*Vice-President*

Jesse MacIntire  
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### RESOLUTION

Whereas, the Arizona Association of Licensed Private Investigators (AALPI) is a non-profit, tax-exempt, professional association with a membership of over 200 private investigators who are licensed by the State of Arizona; and

Whereas, AALPI supports the goal of the Justice Project to correct manifest injustices in the criminal justice system.

Therefore, AALPI endorses Justice Project and seeks to create a partnership in achieving the Justice Project's goals; and

Further, AALPI pledges its resources and the expertise of its members to provide professional fact investigations, as needed, in support of Justice Project cases on a pro bono or reduced-rate basis.

Adopted by the Board of Directors, this Sixth Day of February, 2007

  
John MacIntire, President

# Ex. B

September 2006

**VITA**

**WILLIAM C. THOMPSON**

Department of Criminology, Law and Society  
School of Social Ecology  
University of California  
Irvine, California 92697  
(949) 824-6156

**EDUCATION**

- Ph.D. 1984 Stanford University (Psychology)  
Dissertation Topic: Bayesian and intuitive assessment of forensic  
science evidence in criminal trials.
- J.D. 1982 Boalt Hall School of Law, University of California, Berkeley
- B.A. 1976 University of Southern California (Psychology)

**EMPLOYMENT**

- 1995-present Professor  
Department of Criminology, Law & Society,  
School of Social Ecology,  
University of California, Irvine
- 1989-1995 Associate Professor,  
Program in Social Ecology/Department of Criminology, Law & Society  
University of California, Irvine
- 1983-1989 Assistant Professor,  
Program in Social Ecology,  
University of California, Irvine
- 1982-1983 Attorney.  
Law Offices of Clark L. Deichler,  
Oakland, California.
- 1981 Staff Fellow.  
President's Commission for the Study of Ethical Problems in Medicine and  
Biomedical and Behavioral Research, Washington, D.C.

**PROFESSIONAL MEMBERSHIPS**

California Bar  
American Academy of Forensic Sciences  
National Association of Criminal Defense Lawyers  
American Bar Association  
American Psychology-Law Society

## **PUBLICATIONS**

### **Peer-reviewed articles in scholarly journals**

- Kaasa, S.O., Peterson, T., Morris, E.K., & Thompson, W.C. (in press). Statistical inference and forensic evidence: Evaluating a bullet lead match. *Law & Human Behavior*.
- Koehler, J.J. & Thompson, W.C. (2006). Mock jurors' reactions to selective presentation of evidence from multiple-opportunity searches. *Law & Human Behavior*, 30, 455-468.
- Thompson, W.C. (2005) Analyzing the relevance and admissibility of bullet-lead evidence: Did the NRC report miss the target? *Jurimetrics*, 46, 65-89.
- Quas, J.A., Thompson, W.C., & Clarke-Stewart, C.K.A. (2005) Do jurors "know" what isn't so about child witnesses? *Law and Human Behavior*, 29, 425 – 456.
- Saks, M.J., Risinger, M., Rosenthal, R. & Thompson, W.C. (2003). Context effects in forensic science. *Science & Justice*, 43(2), 77-90.
- Thompson, W.C., Taroni, F. & Aitken, C.G.G. (2003). How the probability of a false positive affects the value of DNA evidence. *Journal of Forensic Sciences*, 48(1), 47-54.
- Thompson, W.C. & Pathak, M.K. (1999). Empirical Study of Hearsay Rules: Bridging the Gap Between Psychology and Law. *Psychology, Public Policy and Law*, 5(2), 456-472 (1999).
- Pathak, M.K. & Thompson, W.C. (1999). From Child to Witness to Jury: Effects of Suggestion on the Transmission of Hearsay. *Psychology, Public Policy and Law*, 5(2), 372-387.
- Thompson, W.C., Clarke-Stewart, K.A., & Lepore, S.J. (1997). What did the janitor do? Suggestive interviewing and the accuracy of children's accounts, *Law & Human Behavior*, 21(4), 405-426.
- Thompson, W.C. (1997). Accepting Lower Standards: The National Research Council's Second Report on Forensic DNA Evidence. *Jurimetrics*, 37(4) 405-424.
- Thompson, W.C. (1995). Subjective interpretation, laboratory error and the value of DNA evidence: Three case studies, *Genetica*, 96: 153-168.
- Reprinted in B.S. Weir (Ed.) *Human Identification: The Use of DNA Markers*. Dordrecht, The Netherlands: Kluwer Academic Publishers, 1995, 153-168.
- Thompson, W.C. (1989). Death qualification after Wainwright v. Witt and Lockhart v. McCree. *Law and Human Behavior*, 13, 185-215.
- Thompson, W.C. (1989). Are juries competent to evaluate statistical evidence? *Law and Contemporary Problems*, 52, 9-41.



Melton, G.B., Levine, R.J., Koocher, G.P., Rosenthal, R. & Thompson, W.C. (1988). Community consultation in socially sensitive research: Lessons from clinical trials of treatments for AIDS. *American Psychologist*, 43, 573-581.

--Reprinted in Udo Schuklenk (Ed.) *Aids, Society, Ethics and Law*. Aldershot, U.K.: Ashgate Publishing Limited (2001).

Thompson, W.C. & Schumann, E.L. (1987). Interpretation of statistical evidence in criminal trials: The prosecutor's fallacy and the defense attorney's fallacy. *Law and Human Behavior*, 11, 167-187.

Cowan, C.L., Thompson, W.C. & Ellsworth, P.E. (1984). The effects of death qualification on juror's predisposition to convict and on the quality of deliberation. *Law and Human Behavior*, 8, 53-79.

-- Cited by the U.S. Supreme Court

Thompson, W.C., Cowan, C.L., Ellsworth, P.E. & Harrington, J. (1984). Death penalty attitudes and conviction proneness: The translation of attitudes into verdicts. *Law and Human Behavior*, 8, 95-113.

-- Cited by the U.S. Supreme Court

Ellsworth, P.E., Cowan, C.L., Bukaty, R. & Thompson, W.C. (1984). The death qualified jury and the defense of insanity. *Law and Human Behavior*, 8, 81-93.

-- Cited by the U.S. Supreme Court

Thompson, W.C., Fong, G. & Rosenhan, D.L. (1981). Inadmissible evidence and juror verdicts. *Journal of Personality and Social Psychology*, 40, 453-465.

-- Abstracted in *Psychology Today*

Thompson, W.C., Cowan, C.L. & Rosenhan, D.L. (1980). Focus of attention mediates the impact of negative affect on altruism. *Journal of Personality and Social Psychology*, 38, 291-302.

Reyes, R.M., Thompson, W.C. & Bower, G.H. (1980). Judgmental biases resulting from differing availabilities of arguments. *Journal of Personality and Social Psychology*, 39, 2-12.

#### **Peer-reviewed articles in professional/practitioner journals**

Tobin, W.A. & Thompson, W.C. (July 2006). Evaluating and challenging forensic identification evidence. *The Champion*, 30, 12-21. (Cover article)

Thompson, W.C. (January 2006). Tarnish on the 'gold standard:' Understanding recent problems in forensic DNA testing. *The Champion*, 30(1), 10-16 (Cover Article).

Thompson, W.C., Ford, S., Doom, T., Raymer, M. & Krane, D. (2003a) Evaluating

Forensic DNA Evidence: Essential Elements of a Competent Defense Review:  
Part 1. *The Champion*, 27(3), 16-25 (Cover Article)

Thompson, W.C., Ford, S., Doom, T., Raymer, M. & Krane, D. (2003b) Evaluating  
Forensic DNA Evidence: Essential Elements of a Competent Defense Review:  
Part 2. *The Champion*, 27(4), 24-28.

#### Law review articles

- Thompson, W.C. & Dioso-Villa, R. Turning a blind eye to misleading scientific  
testimony: Failure of procedural safeguards in a capital case. (Under review).
- Thompson, W.C. How DNA evidence is transforming criminal justice. (May 2004) *Onyx:  
Journal of the Blackstone Society*, 48-55.
- Risinger, D.M., Saks, M.J., Thompson, W.C. & Rosenthal, R. (2002). The  
Daubert/Kumho implications of observer effects in forensic science: Hidden  
problems of expectation and suggestion. *California Law Review*, 90(1), 1-56.
- Thompson, W.C. (1997). A Sociological Perspective on the Science of Forensic DNA  
Testing. *U.C. Davis Law Review*, 30(4), 1113-1136.
- Thompson, W.C. (1996). DNA Evidence in the O.J. Simpson Trial, *Colorado Law  
Review*, 67 (4), 827-857.
- Thompson, W.C. (1993). Evaluating the admissibility of new genetic identification tests:  
Lessons from the "DNA War". *Journal of Criminal Law & Criminology*, 84, 22-  
104.
- Thompson, W.C. (1989). Are juries competent to evaluate statistical evidence? *Law  
and Contemporary Problems*, 52, 9-41.
- Thompson, W.C. & Ford, S. (1989). DNA typing: Acceptance and weight of the new  
genetic identification tests. *Virginia Law Review*, 75, 45-108.
- Reprinted in *Criminal Practice Law Review*, 1989, 2, 103-162.
  - Plagiarized in Harvey, B.S. & Berry, J.D., DNA typing: Keeping the state out  
of your client's genes. *The Champion*, 1989, 13, 6-9.
  - Reprinted in *Daily Journal Report*, October 27, 1989, 18-46.
  - Reprinted in *California Defender*, 1990, 4, 2-25.
- Redleaf, D., Schmitt, S. & Thompson, W.C. (1979). The California Natural Death Act:  
An empirical study of physicians' practices. *Stanford Law Review*, 31, 913-943.
- Abstracted in *The Hastings Center Report*, 1980 (April) p.51.

**Other journal, magazine and proceedings articles**

- Schmechel, R.S., Thompson, W.C. & Ungvarsky, E.J. (August, 2005). Defending with (and against) forensic evidence: A call to share resources. *The Champion*, 29, 39-40.
- Nethercott, M & Thompson, W.C. (June 2005). Lessons from Baltimore's GSR debacle. *The Champion*, 29, 50-52.
- Thompson, W.C. & Cole, S.A. (March 2005). Lessons from the Brandon Mayfield case. *The Champion*, 29, 32-34.
- Thompson, W.C. & Nethercott, M. (Sept-Oct, 2004). The challenge of forensic evidence. *The Champion*, 28, 50-51.
- Thompson, W.C. (2003). Houston has a problem: How bad DNA evidence sent the wrong man to prison. *Cornerstone*, 25(1), 16-17
- Thompson, W.C. People v. Marshall: The Legal Story. *Scientific Testimony: An Online Journal*, [www.scientific.org](http://www.scientific.org) (1998).
- Thompson, W.C. Examiner Bias in Forensic RFLP Analysis. *Scientific Testimony: An Online Journal*, [www.scientific.org](http://www.scientific.org) (1998).
- Thompson, W.C. & Thoma, J.E., (1997-98). Selective Bibliography on Forensic DNA Evidence, 1997-1998. *California Defender*, 7(3&4), 35-44.
- Thompson, W.C. & Thoma, J.E. (1996). Selective bibliography on forensic DNA evidence. *CACJ Forum*, 23(1), 86-95.
- Thompson, W.C. (January 1995). DNA Evidence: The State of the Science, *Bulletin of Law, Science and Technology*, 1-7.
- Thompson, W.C. (August, 1994). DNA Evidence in Criminal Law: New Developments, *Trial*, 30(8), 34-42.
- Expert Opinion: DNA Testing Under Fire (Excerpts of a Debate between William Thompson and George W. ("Woody") Clarke, moderated by Nina Schuyler). *California Lawyer* (October, 1994, 45-48).
- Thompson, W.C. & Pathak, M.K. (1993). Evaluating the trustworthiness of hearsay: Truthful in part, truthful in whole? *Proceedings of the Second International Conference on Forensic Statistics*, F, 49-54.
- Thompson, W.C. & Ford, S. (1993). Is the probative value of forensic DNA evidence undermined by subjectivity in determination of matches? *Proceedings of the Second International Conference on Forensic Statistics*, A, 47-60.
- Thompson, W.C. & Thoma, J.E. (1993). Selective bibliography on forensic DNA evidence. *CACJ Forum*, 20(4), 71-73.

Thompson, W.C. (October, 1993) The DNA testing debate: Where do we stand and what have we learned. *Orange County Lawyer*.

Thompson, W.C. & Ford, S. (April 1992). DNA testing: Debate update. *Trial*, 28, 52-61.

Ford, S. & Thompson, W.C. (1990). A question of identity: Some reasonable doubts about DNA "fingerprints". *The Sciences*, January/February, 36-43.

-- Reprinted in *The Forum*, June 1990.

-- Reprinted in *California Defender*, 1990, 4, 42-48.

Thompson, W.C. & Ford, S. (1990). Is DNA fingerprinting ready for the courts? *New Scientist*, March 31, 1990, vol 125, 38-43. (Cover story)

-- Reprinted in *California Defender*, 1990, 4, 36-41.

Thompson, W.C. & Ford, S. (September 1988). DNA Typing: Promising forensic technique needs additional validation. *Trial*, 56-64.

#### **Chapters in edited volumes**

Cole, S.A & Thompson, W.C. (2007). Legal issues associated with DNA evidence. In Craig Hemmens (Ed.), *Legal Issues for Criminal Justice*. Los Angeles: Roxbury.

Thompson, W.C. & Cole, S.A. (2007). Psychological aspects of forensic identification evidence. In M. Costanzo, D. Krauss & K. Pezdek (Eds.) *Expert Psychological Testimony for the Courts*. New York: Lawrence Erlbaum & Associates.

Thompson, W.C. & Krane, D.E. (2003). DNA in the courtroom. In J. Moriarty (Ed.) *Psychological and Scientific Evidence in Criminal Trials*. Minneapolis: West Group. (Sections 11:1 - 11:43).

Saks, M.J. & Thompson, W.C. (2003). Assessing Evidence: Proving Facts. In D. Carson and R. Bull (Eds.) *Handbook of Psychology in Legal Contexts*. John Wiley & Sons, pp. 329-345.

Thompson, W.C. (2002). DNA Testing. In David Levinson (Ed.) *Encyclopedia of Crime and Punishment*. Thousand Oaks, CA.: Sage.

Thompson, W.C. & Fuqua, J. (1998). "The Jury Will Disregard...": A Brief Guide to Inadmissible Evidence. In J. Golding & C. MacLeod, *Intentional Forgetting: Interdisciplinary Approaches*. New York: Lawrence Erlbaum & Associates.

Thompson, W.C. (1997). Forensic DNA Evidence, In Bert Black and Patrick Lee (Eds.) *Expert Evidence: A Practitioner's Guide to Law, Science and the FJC Manual*, pp. 196-266. West Publishing.

--Excerpt reprinted in R. Lempert, S. Gross & S. Liebman, *A Modern Approach to Evidence*, West Publishing, 1999, 769-783.

- Thompson, W.C. (1996). Research on human judgment and decision making: Implications for informed consent and institutional review. In B. Stanley, J. Sieber & G. Melton, *Research Ethics: A Psychological Approach*. Lincoln, Neb.: University of Nebraska Press (1996).
- Thompson, W.C. (1994). When science enters the courtroom: The DNA typing controversy. In C. Cranor (Ed.) *Are Genes Us? The Social Consequences of the New Genetics*. New Brunswick, N.J.: Rutgers University Press, p. 180-202.
- Thompson, W.C. (1993). Genetics and criminal justice. In R. Steven Brown (Ed.) *Advances in Genetics Information: A Guide for State Policy Makers*. Lexington, Ky.: Council of State Governments.
- Thompson, W.C. (1993). Research on jury decision making: The state of the science. In N.J. Castellan (Ed.) *Current Issues in Individual and Group Decision Making*. Hillsdale, N.J.: Lawrence Erlbaum.
- Thompson, W.C. & Ford, S. (1991). The meaning of a match: Sources of ambiguity in the interpretation of DNA prints. In J. Farley & J. Harrington (Eds.) *Forensic DNA Technology*. New York: CRC Press, Inc., 1991.
- Thompson, W.C. (1983). Psychological issues in informed consent. In The President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (Eds.) *Making Health Care Decisions: Vol 3: Appendices: Studies on the Foundations of Informed Consent* (pp 83-115) Washington, D.C.: U.S. Government Printing Office.

### **Book reviews**

- Dioso, R. & Thompson, W.C. (2006). Review of: DNA and the criminal justice system: The technology of justice. *Journal of Forensic Sciences*, 51(1), 206-07.
- Thompson, W.C., Peterson, T. & Kaasa, S.O. (2005). Reflections on "Psychology and Law" (Review of Taking Psychology and Law Into the Twenty-First Century By James R.P. Ogloff (Ed.), *Contemporary Psychology*,

### **Brief comments and letters in scientific journals**

- Krane, D.E., Doom, T.E., Mueller, L., Raymer, M.L., Shields, W.M. & Thompson, W.C. (2004). Commentary on: Budowle, et al. CODIS STR loci data from 41 sample populations. *J Forensic Sci* 2001; 46:453-489 (Letter). *Journal of Forensic Sciences*, 49(6).
- Thompson, W.C., Taroni, F. & Aitken, C.G.G. (2004). Authors' response (to letter by Brenner and Inman re: Thompson, Taroni & Aitken, 2003). *Journal of Forensic Sciences*, 49(1) 194-95.
- Thompson, W.C., Taroni, F. & Aitken, C.G.G. (2003). Authors' Response (to letters by Cotton & Word, Clarke re: Thompson, Taroni & Aitken, 2003). *Journal of Forensic Sciences*, 48(5),

- Thompson, W.C. (1998). Additional commentary on Budowle et al. *Journal of Forensic Sciences*, 43(2) 447-448.
- Thompson, W.C. (1995). Discussion of the paper by Balding and Donnelly, *Journal of the Royal Statistical Society*, 158(A), 49.
- Thompson, W.C. (1994). Comment (on K. Roeder, DNA Fingerprinting: A Review of the Controversy). *Statistical Science*, 9, 263-266.
- Thompson, W.C. (1993). Worthwhile DNA questions (letter) *Judicature*, 77, 5-6.

#### **Commentary and op/ed articles in newspapers**

- Cole, S.A. & Thompson, W.C. Lawyers should view scientific evidence with critical eye. *Los Angeles Daily Journal*, Sept 20, 2005
- Cole, S.A. & Thompson, W.C. FBI needs to make more changes in fingerprint analysis. *San Francisco Daily Journal*, Nov 26, 2004, 4.
- Cole, S.A. & Thompson, W.C. DNA initiative is wrong way of expanding state's database. *Los Angeles Daily Journal*, Oct 25, 2004.
- Thompson, W.C. Commentary: Keep Your Hands Off My DNA. *Los Angeles Times*, Oct 14, 2004, B-11
- Thompson, W.C. HPD Crime Lab Mess: Worse Than Imagined? *Houston Chronicle*, Sunday Outlook, September 28, 2003.
- Thompson, W.C. Grand juries alone won't cut through HPD's crime lab tangle. *Houston Chronicle*, Sunday Outlook, June 15, 2003.

#### **Published legal briefs**

- Motion to Exclude DNA Evidence in United States v. Cuff, 37 F.Supp.2d 279 (S.D.N.Y. 1999)(prepared by William C. Thompson). Reprinted in BNA Criminal Practice Guide, January 12, 2000, p. 14-18.
- Memorandum in Support of Motion to Exclude DNA Evidence in People v. O.J. Simpson, No. BA 97211, Los Angeles County Superior Court (with Barry Scheck and Peter Neufeld). Excerpt reprinted in BNA Criminal Practice Manual, 1994, 8, 583-590.
- Defense Opening Brief on the Admissibility of Forensic DNA Evidence in State of New Mexico v. Jay Anderson, No. CR 46255, Bernalillo County, N.M. (with Dan Cron and Angela Arellanes). Reprinted in BNA Criminal Practice

## **PRESENTATIONS**

### **Recent invited presentations at educational institutions, governmental agencies (or similar organizations)**

#### **2001**

- Thompson, W.C. and Hoey, B. DNA Evidence (Training Workshop for Missouri Trial Judges). Advanced Judicial Studies Institute, Columbia, Mo. May 7-9, 2001.
- Thompson, W.C. How DNA Tests Might Incriminate Innocent People. Invited presentation at the DePaul University Law School Conference on Science and Law, Chicago, Ill. May 2001.
- Thompson, W.C. Evaluating the Government's DNA Evidence. Invited presentation at a training conference sponsored by the Los Angeles County Public Defender's Office. June 2001.
- Thompson, W.C. DNA Testing for Criminal Identification: Legal and Scientific Issues. Guest Lecture at University of Texas School of Law, Austin Texas, September 2001.
- Thompson, W.C. Bayesian analysis of STR data. Colloquium for the BioInformatics Program, Wright State University, Dayton, Ohio. December 2001.
- Thompson, W.C., Krane, D., & Ford, S. DNA for Criminal Defense Lawyers. (One-Day Training Workshop for Public Defenders) sponsored by the Indiana State Public Defender's Association, Indianapolis, Indiana, December 2001.

#### **2002**

- Thompson, W.C. Understanding, Using and Challenging DNA Evidence. Invited presentation at "Learn Trial Techniques from the Masters: Advanced Seminar on Criminal Litigation," South Texas College of Law, Houston, Texas, January 2002.
- Thompson, W.C. and Hoey, B. DNA Evidence (Training Workshop for Missouri Trial Judges). Advanced Judicial Studies Institute, Jefferson City, Mo. April 18-19, 2002.
- Thompson, W.C. Challenging Problematic DNA Evidence: A Case Study. Invited presentation at the DePaul University Law School Conference on Science and Law, Chicago, Ill. May 2002.
- Thompson, W.C. A Psychologist Looks at Forensic DNA Evidence. Invited Athenaeum Presentation (evening lecture), Claremont-McKenna College, Claremont, Calif. September 2002.
- Thompson, W.C. What Wrongful Convictions Teach Us About Forensic Science. Guest Lecture at University of Texas Law School, Austin Texas, September 2002.

#### **2003**

- Thompson, W.C. Widening the Net: Statistical Implications of Flexible Match Criteria. Invited Presentation at the Cook County (Chicago) Public Defenders Office, May 2003.
- Thompson, W.C. Crime Lab Problems: Lessons from the Houston Scandal. Invited presentation at the DePaul University Law School Conference on Science and Law, Chicago, Ill. May 2003.
- Thompson, W.C. Widening the Net: Statistical Implications of Error and Bias in Forensic DNA Testing. Invited presentation at the Forensic Bioinformatics Conference, Wright State University, Dayton, Ohio. August 2003.
- Thompson, W.C. Use and Misuse of DNA Evidence. Presentation at Social Science and the Law of Evidence, a conference sponsored by the University of California, Irvine. November 2003.

#### **2004**

- Thompson, W.C. How DNA Evidence is Transforming Criminal Justice. Invited public lecture, Institute of Advanced Studies, University of Western Australia, Perth, Australia, March 2004.
- Thompson, W.C. Inside the Houston Crime Lab Scandal. Invited presentation at the DePaul University Law School Conference on Science and Law, Chicago, Ill. May 2004.

- Krane, Dan & Thompson, W.C. Cold Hits and False Positives: The Leskie Inquest. Invited presentation at the DePaul University Law School Conference on Science and Law, Chicago, Ill. May 2004.
- Thompson, W.C. Actual Innocence: Lessons from Crime Lab Misconduct and Errors. Invited presentation at 3<sup>rd</sup> Annual Forensic Bioinformatics Conference, University of Dayton Law School, August 2004.
- Thompson, W.C. Understanding DNA Evidence: What Judges Need to Know. Invited presentation at the Criminal Bench Seminar, Los Angeles, CA. October 2004.
- Thompson, W.C. What to Look for in a DNA Case. Invited address at the 9<sup>th</sup> Annual Felony Practice Seminar, California Public Defenders Association, Yosemite, California, Nov 2004.

## 2005

- Thompson, W.C. Actual Innocence: Lessons from Crime Lab Misconduct and Errors. Lifeline Lunch (Teleconference). New Mexico State Public Defender's Association, March 2005.
- Thompson, W.C. Lab Scandals: Lessons for Reform. Invited presentation at the DePaul University Law School Conference on Science and Law, Chicago, Ill. May 2005.
- Thompson, W.C. Thinking About DNA Database Searches. Invited address at the Cook County Public Defender's Office, Chicago, Illinois. May 2005.
- Thompson, W.C. Evaluating Forensic DNA Evidence. Invited address at the Indigent Defense Training Seminar (Sponsored by the Virginia State Supreme Court), Richmond Virginia (with remote teleconference link to Abbington, Virginia), May 2005.
- Thompson, W.C. DNA Testing Problems in Virginia. Invited presentation at 4<sup>th</sup> Annual Forensic Bioinformatics Conference, University of Dayton Law School, August 2005

## 2006

- Thompson, W.C. Evaluating DNA Evidence. Training conference (8 hours) for DNA unit of Los Angeles County Public Defenders Office. January 2006.
- Thompson, W.C. Legal Regulation of Crime Laboratories. International e-Symposium on Forensic DNA, Fingerprinting & Criminal Law. The Forensic Institute 2006 Series. February 28, 2006.
- Thompson, W.C. How CSI Can Go Awry: A Psychologist Looks at Forensic Evidence. Invited Evening Lecture, University of Portland, Portland, Oregon, March 27, 2006.
- Thompson, W.C. Detecting Laboratory Error. Invited address at the Indigent Criminal Defense Training Seminar (Sponsored by Supreme Court of Virginia and Virginia State Bar), Richmond, VA. (with remote teleconference link to Abbington, VA), April 7, 2006.
- Thompson, W.C. Forensic DNA Evidence. Invited presentation at UCI CEO Roundtable. Kona, HI., May 2006.
- Thompson, W.C. Painting the Target Around the Arrow: How Forensic DNA Analysts Lie (Mislead) with Statistics. Invited presentation at the DePaul University Law School Conference on Science and Law, Chicago, Ill. May 2005.
- Thompson, W.C. Current Issues in Scientific Evidence. Invited address at the Judicial Conference of Virginia (mandatory annual conference attended by all appellate and circuit court judges in the state), Virginia Beach, VA. May 16, 2006
- Thompson, W.C. Understanding and Evaluating DNA Evidence. Invited address at the Judicial Conference of Virginia (mandatory annual conference attended by all appellate and circuit court judges in the state), Virginia Beach, VA. May 16, 2006.
- Invited Panelist, American Civil Liberties Union Panel on Technology and the Future, Rayburn House Office Building, Washington, D.C. October 25, 2006.

## Recent invited presentations at professional meetings

### 2000

- Thompson, W. C. STR Test Results: Interpretation, Characterization and Admissibility. Invited address at the Meeting of the California Association of Criminalists, Glendale, California, October 2000.



Thompson, W.C. Challenging the Government's DNA Evidence. Invited presentation at the National Seminar on Forensic Evidence and the Criminal Law, Philadelphia, PA. November 2000.

#### 2001

Thompson, W.C. Challenging the Government's DNA Evidence. Invited presentation at the Capital Case Defense Seminar, Monterey, CA. February 2001.

Thompson, W.C. Civil Rights Implications of DNA Databases and "Dragnets." Invited presentation at the International Conference on DNA and Human Rights, Berkeley, California, April 2001.

Thompson, W.C. DNA Testing for Criminal Identification: Legal and Social Issues. Invited presentation at the Western Meeting of the American Association for the Advancement of Science, Irvine, California, June 2001.

Thompson, W.C. Criminology in the Genetic Era. Presidential Plenary Presentation at the annual meeting of the American Society of Criminology, Atlanta Georgia, November 2001.

#### 2002

Thompson, W.C. Learning from Wrongful Convictions: The Role of Systematic Empirical Research. Invited presentation at the National Innocence Project Conference, San Diego, Calif. January 2002.

Thompson, W.C. Addressing DNA That Implicates Your Client. Invited presentation at the annual Capital Case Defense Seminar, Monterey, CA. February 2002.

#### 2003

Thompson, W.C. Interpretation of DNA Evidence: Ethical, Psychological and Statistical Issues. Invited address at the annual meeting of the Association of Forensic DNA Analysts and Administrators (AFDAA), Austin, Texas. January 2003.

Thompson, W.C. Evaluating and Challenging DNA Evidence That Implicates Your Client. Invited presentation at the annual Capital Case Defense Seminar, Monterey, CA. February 2003.

Thompson, W.C. Problems in the Houston Police Department Crime Laboratory. Invited presentation at the National Innocence Project Conference, New Orleans, Louisiana. March 2003

Thompson, W.C. Screw-Ups, Misinterpretations, and Bad Statistics: How DNA Tests Go Wrong. Invited presentation at the Capital Defense Conference, Los Angeles County Public Defender's Office, Los Angeles, California, October 2003.

#### 2004

Thompson, W.C. Dealing with DNA: What Defense Lawyers Need to Know. Invited presentation at the meeting of the Texas Criminal Defense Lawyers Association, Houston, Texas. January 2004.

Thompson, W.C. & Johnson, Elizabeth, Cold Hits, STRs and Mixed Samples. Invited presentation at the annual Capital Case Defense Seminar, Monterey, CA. February 2004.

Thompson, W.C. Addressing Crime Lab Scandals. Invited presentation at the meeting of the National Association of Criminal Defense Lawyers. San Francisco, CA. June 2004.

Thompson, W.C. Evaluating Forensic DNA Evidence. Invited presentation at the Federal Public Defender Investigators Conference, Redondo Beach, CA. September 2004.

Thompson, W. C. Lessons from Scandal: On Making Science Open and Objective in Adversarial Systems of Justice. Keynote Address at the Australia-New Zealand Forensic Science Society, Wellington, N.Z. March 2004.

Thompson, W.C. A Psychologist Looks at DNA Evidence. Invited address to the Australian Psychology-Law Society, Perth, Australia, March 2004.

Thompson, W.C. Government Genetic Databanks: Benefits and Risks of Expansion. Invited address at the Conference on Human Rights and the Protection of Innocence, University of Western Australia, Perth, Australia, March 2004.

#### 2005

- Thompson, W.C. Evaluating Forensic DNA Evidence. Invited address at the meeting of the National Association of Criminal Defense Lawyers, New Orleans, LA. February 2005.
- Thompson, W.C. CSI Meets the Jury. Invited address at the meeting of the Western Psychological Association, Portland, Oregon, April 2005.
- Thompson, W.C. DNA Testing Problems in Texas and Virginia. Invited address at the meeting of the California Association of Criminalists, Los Angeles, California, October 2005.

## 2006

- Thompson, W.C. Evaluating and Challenging Forensic DNA Evidence. Invited address at the annual Capital Case Defense Seminar, Monterey, CA. February 2006.
- Thompson, W.C. & Cole, Science in the Courtroom. Invited address at the monthly meeting of the Newport Beach, CA. Bar Assn. February 2006.
- Thompson, W.C. Beyond Bad Apples: Understanding the Real Problems in Forensic Science. Invited address at Forensic Bioinformatics 5<sup>th</sup> Annual Conference: DNA from Crime Scene to Courtroom: An Expert Forum. Dayton, Ohio, August 2006.

## **Recent conference papers**

### 2001

- Kaplan, P, Leo, R., & Thompson, W.C. Investigating and Correcting Police Misconduct: A Preliminary Inquiry into the Rampart Scandal. Presented at the meeting of the Society for the Study of Social Problems, Anaheim, California, August 2001.
- Thompson, W.C. Confirmation Bias in the Interpretation of Forensic DNA Evidence. Presented at the annual meeting of the American Psychological Association, San Francisco, California, August 2001.
- Thompson, W.C. Recent Defense Challenges to Forensic DNA Evidence. Presented at the National Conference on Science and Law (National Institute of Justice), Miami Florida, October 2001.

### 2002

- Thompson, W.C. What Wrongful Convictions Teach Us About Forensic Science. Presented at the bi-annual meeting of the American Psychology-Law Society, Austin Texas, March 2002.
- Thompson, W.C., Kromer, M. & Kaplan, P. Jurors' Evaluation of Contested DNA Evidence: A Case Study. Presented at the National Conference on Science and Law (National Institute of Justice), Miami Florida, October 2002.

### 2005

- Thompson, W.C. Problematic DNA Evidence. Presented at the Sixth International Conference on Forensic Statistics. Tempe, Arizona, March 2005.
- Thompson, W.C. Assessing the Legal Relevance of Bullet Lead Evidence: Did the NRC Misfire? Presented at the Sixth International Conference on Forensic Statistics. Tempe, Arizona, March 2005.
- Kaasa, S.O., Morris, E.K., Peterson, T. & Thompson, W.C. Mock jurors' evaluations of bullet lead evidence. Presented at the annual meeting of the Western Psychological Association, Portland, Oregon, April 2005.
- Thompson, W.C. The Houston Police Crime Lab Debacle: Exploring a Systemic Justice System Failure. Presented at the Annual Meeting of the Law & Society Association, Las Vegas, Nev. June 2005.
- Kaasa, S.O., Morris, E.K., Peterson, T. & Thompson, W.C. Evaluation of Bullet Lead Evidence: Are Mock Jurors as Smart as They Think They Are? Presented at the National Academy of Sciences'

Arthur M. Sackler Colloquium on Forensic Science, Washington, D.C. November 2005.

**2006**

Dioso, R., Velasquez, B., Peterson, T. & Thompson, W.C. Misuse of DNA Evidence: A Case Study.  
Presented at Faces of Wrongful Conviction, a conference at UCLA Law School, April 2006.

**RESEARCH GRANTS**

- 1984-1985     **Mathematical Evidence in Criminal Trials: Improving the Probability of Justice.** U.C. Irvine Academic Senate Committee on Research -- Faculty Research Grant -- Principal Investigator. (\$15,000).
- 1985-1986     **Child Witnesses: A Research Proposal.** U.C. Irvine Academic Senate Committee on Research -- Faculty Research Grant.  
Co-Principal Investigator (with Alison Clarke-Stewart). (\$4956).
- 1986-1990     **Mathematical Evidence in Criminal Trials.**  
National Science Foundation. Principal Investigator. (\$135,000).
- 1999-2000     **Developing Legal Research Skills Through Web-Based Tutorials.**  
U.C. Irvine Division of Undergraduate Education. (\$5000).
- 2002-2003     **Evaluating the Feasibility of a National Support Center on Scientific Evidence for Criminal Lawyers.** Newkirk Center for Science & Society. (\$16,000).
- 2002-2003     **Feasibility of a National Support Center on Scientific Evidence for Defense Counsel.** Open Society Institute. (\$5000).
- 2006-2007     **Assessing the Feasibility of Building a Database of Trial Transcripts Containing Scientific Testimony.** Scientific Knowledge and Public Policy (SKAPP). Co-PI. (\$25,000).
- 2006-2008     **Jurors' Evaluations of Forensic Science.** National Science Foundation. Principle Investigator (\$125,000)

**PROFESSIONAL PRACTICE AS AN ATTORNEY**

- 1989-94     Co-counsel for defendant in first New Mexico case involving forensic DNA evidence, State v. Anderson, 853 P.2d 135 (N.M.App. 1993)(FBI's statistical methods fail to meet Erye standard), rev'd under a different standard (Daubert), N.M. Sup.Ct. No. 21,069, Aug. 25, 1994. Served as lead counsel during 11-day pre-trial evidentiary hearing, prepared appellate briefs for New Mexico Court of Appeals and Supreme Court, argued case before Supreme Court.
- 1990     Co-counsel for defendant during pre-trial hearing on admissibility of forensic DNA evidence in People v. Halik (Superior Court of Los Angeles County, No. VA 000843, 1991), first case in California in which defendant

successfully challenged admissibility of DNA-print evidence; first case in U.S. in which a defendant successfully challenged the scientific reliability of the FBI's procedure for "matching" DNA prints.

- 1991 Filed Amicus (Letter) Brief with California Supreme Court, arguing against review or depublication of People v. Barney, 8 Cal.App 4th 798 (1992).
- 1994-95 Co-counsel for O.J. Simpson in his criminal trial in Los Angeles.
- 1995-96 Co-counsel for defendant in People v. Marshall (Superior Court of Los Angeles County, No. BA 069796). Responsible for challenging DNA evidence. Rape charges against defendant Sammy Marshall were dismissed after defense investigation uncovered improper scientific conduct by forensic laboratory.
- 1998-99 Court-Appointed Special Counsel for defendant John Cuff, in U.S. v. Heatly, et al. 37 F.Supp.2d 279 (S.D.N.Y. 1999). Prepared motions regarding the admissibility and statistical characterization of STR (DNA) test results.
- 2001 Co-Counsel for defendant Cory Robinson, charged with murder with special circumstances in Los Angeles County Superior Court, Pasadena Branch. Responsible for cross-examination of prosecution DNA expert and direct examination of defense DNA expert. Trial resulted in hung jury, December 19, 2001.
- 2003 Provided legal advice to a number of Houston lawyers and testified before two grand juries in connection with the Houston Crime Laboratory scandal.

#### **COURTROOM TESTIMONY AS AN EXPERT WITNESS**

I have qualified as an expert and presented testimony on the following topics:

**Social science methodology.** Superior Court, San Diego County, California (Evidentiary hearing on a motion for severance of co-defendants in a capital trial), 1987; U.S. District Court for the Central District of California, 2000 (Testimony regarding statistical analyses in toxic waste case).

**Jury selection procedures and social science research.** District Court, Bernalillo County, Albuquerque, New Mexico, (Evidentiary hearing on a motion challenging jury selection procedures in a capital trial), 1988.

**Survey research on scientific opinions.** State court proceedings in Indiana, Texas, Minnesota, Arizona, Washington, Delaware and California, (Evidentiary hearings on admissibility of DNA tests under the Frye standard). 1988-89.

**Forensic DNA testing, statistical interpretation of DNA test results.** Federal District Court, Waco Texas (Hearing on inmate David Hicks' motion to reanalyze DNA evidence in a capital case), 1998. Los Angeles County Superior Court (testimony before jury in People v. Dixon), 1998. Coronial Court, Melbourne, Victoria, Australia (expert testimony concerning potential for laboratory errors and coincidental match probabilities in Coroner's Inquest into Death of Jaidyn Leskie), February 2004. Federal District Court, Amarillo, Texas (federal habeas hearing in Skinner v. Watkins on ineffective

assistance of counsel), Nov. 2005

### **LEGISLATIVE TESTIMONY**

**President's Commission on Ethical Problems in Medicine and Biomedical and Behavioral Research.**

-- Testified by invitation concerning research on the California Natural Death Act (November 1981)

**California Judicial Council.**

-- Testified by invitation of the California Trial Lawyers Association concerning proposed legislation limiting attorney voir dire in criminal cases (November 1987).

**California State Senate Select Committee on Genetics and Public Policy,**

-- Testified by invitation concerning the status of forensic DNA evidence in criminal trials (May 1996).

**California State Senate Committee on Public Safety**

--Testified by invitation concerning proposed legislation expanding DNA data banks (October, 1997).

### **PROFESSIONAL SERVICE**

**Head Librarian, NLADA/NACDL Forensics Library, web-based library of scientific materials for lawyers at [www.NLADA.org/Defender/forensics](http://www.NLADA.org/Defender/forensics). Responsible for establishing and helping to direct the library.**

**Editor, Scientific Testimony: An Online Journal, [www.scientific.org](http://www.scientific.org) (online journal that publishes articles and commentary about forensic science and scientific evidence). 1998-present.**

**Member, American Bar Association Task Force on Biological Evidence. 2003-05.**

**Reporter for American Bar Association Standards Committee Study Group on DNA Evidence, 2000-2001.**

**Member, National Forensic DNA Review Panel, 1997-2001. Appointed as representative of the American Bar Association on National Panel charged with making recommendations to Congress regarding proficiency testing of forensic DNA laboratories.**

**Faculty Member, National DNA Cross-Examination College, Washington, D.C. Sept. 2005.**

**Advisory Board Member, Center for Justice Studies, University of Nevada, Reno, 1993 - present.**

**Editorial Advisory Board, Law and Human Behavior, 1985-1990.**

**Reviewer of Reports Issued by: National Research Council, National Center for State**

Courts, Federal Judicial Center

Ad hoc reviewer for following journals:

Jurimetrics, Statistical Science, Journal of the Royal Statistical Society, Medicine, Science and Law, Justice Quarterly, Journal of Personality and Social Psychology, Journal of Experimental Social Psychology, Journal of Experimental Psychology, Journal of Applied Social Psychology, Law and Human Behavior, Law and Society Review, Judicature, Psychology, Public Policy and Law, Genetica, Psychological Science

Grant Reviewer for NSF Programs in Law and Social Science, Ethics and Value Studies.

**Scientific Advisor for Media Organizations, 2002-present.** Evaluated and commented publicly on the laboratory work and testimony of DNA analysts and serologists in a number of crime laboratories as part of investigations conducted by the following news organizations: KHOU Television (Houston), Houston Chronicle, Seattle Post-Intelligencer, Chicago Tribune, Winston-Salem (North Carolina) Journal, Virginian Pilot, Richmond Post-Dispatch. My work supported KHOU's DuPont award-winning expose of problems in the Houston Police Department Crime Laboratory (which led to the lab being shut down) and to the discovery that misinterpretation of DNA test results had caused the false conviction of an innocent man (Josiah Sutton) who was later released from prison.

# Ex. C



## HUMAN IDENTIFICATION TECHNOLOGIES, INC.

440 Business Center Court, Redlands, CA 92373

1-877-DNA2HIT

*HITDNA.com*

February 9, 2007

Arizona Justice Project  
Larry Hammond  
Donna Toland  
2929 North Central Avenue  
Twenty-First Floor  
Phoenix, AZ 85012-2793  
Ph. 602-640-9361  
Fax. 602-640-6076

Dear Larry,

It was a pleasure speaking to you this week about the Arizona Justice Project and your NIJ grant proposal. Per our discussion, I am sending you some information about our firm. Since we have spoken, I have received a confirmed date of March 5-8, 2007 for our ASCLD-LAB *International* on-site inspection for consideration to be accredited.

Enclosed with this letter are a number of informational materials that support what I had told you about our laboratory. You will see the following:

- business cards for myself and our Vice President of Business Operations, Rod Landon
- a brochure discussing our background and service provisions
- curricula vitae for myself and scientific co-founder and President, Blaine Kern
- a two-sided glossy detailing our service provisions and testing platforms
- our fee schedules
- curriculum vitae summaries for the remainder of our staff of forensic scientists

As you peruse these materials, you will get a flavor of our operation as being focused on complex, criminal forensic DNA casework. We are very proud of the appropriate qualifications of our staff as forensic scientists (versus simply being DNA technicians).

We would be honored to participate in your Post-conviction DNA Testing program. One of our great strengths is our standard 10-20 business day turnaround time for DNA testing. In fact, we offer a rush service that allows our clients to receive results in as little as 3 business days.

Our standard fees for a 10-20 business day turnaround on DNA testing is \$1100/sample. This fee includes all evidence examination, body fluid testing, statistical calculations, and interpretations in a court-ready report. Our hourly fee for evidence examination in absence of DNA testing is \$250. \$250 per hour is also our rate for consultation.



Because we are thrilled at the prospect of participating in a matter of public interest, we can offer the following reduced rates when assisting the Arizona Criminal Justice Commission with post-conviction DNA issues:

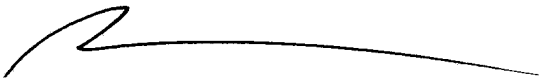
**Consultation: \$175/hour**

**DNA testing: \$700/sample**

**Evidence Examination (for samples on which DNA testing is not performed): \$175/hour**

Please feel free to contact me or Rod Landon with any questions or requests for additional information. I am looking forward to meeting you in person and providing you with a tour of our facility.

Best regards,



Mehul B. Anjaria  
Vice President/Laboratory Director

Addendum to Justice Project Memo, Feb. 12, 2007  
Sent March 9, 2007

RE: Contract Attorney Services

We have also considered the alternative of hiring a single attorney to perform the tasks described in this application. That possibility was worthy of consideration in light of the fact that it might be possible to hire a reasonably qualified attorney for an annual salary (plus overhead) that might be substantially less than the \$300,000 we have budgeted. Upon careful consideration of this alternative, however, we have concluded that this would not be an effective alternative. One attorney acting alone we believe would have great difficulty handling the reviews if every case--especially within the short 18-month timeline established for this project. That would be an impediment even if all the cases were physically located in a single place, but as elsewhere noted in this application, the cases and the relevant parties are certain to be distributed throughout the State of Arizona. The added travel required if a single lawyer tried to handle all the interviewing and all the reviews and all the filings contemplated by this application would prove unmanageable. Instead, as noted above, we have concluded that a group of attorneys assigned to particular cases or particular regions would be much more effective.

# Arizona Postconviction DNA Testing Assistance Program: Timeline

*Objective: To help defray the costs associated with postconviction DNA testing in cases of forcible rape, murder and non-negligent manslaughter where actual innocence might be demonstrated.*

First Quarter

Second Quarter

Third Quarter

Fourth Quarter

Attorney General's Office, Justice Project will hire contract staff.

Justice Project: will begin to obtain testing for all pending cases.

Attorney General's Office: will assist obtaining evidence for pending cases.

Justice Project: by end of first quarter, will conduct and initial re-evaluation of 2,300 cases and complete canvass of public defender offices; from these reviews, forcible rape, murder and non-negligent manslaughter cases will be identified for possible postconviction DNA testing.

AG's Office: will canvass county attorney offices to determine if assistance is needed with any postconviction DNA testing cases that may be pending.

Attorney General's Office and Justice Project will submit quarterly report to ACJC as the SAA.

Justice Project: will commence work on forcible rape, murder and non-negligent cases identified for possible postconviction DNA testing--JP will utilize contract attorney and investigator to track down biological evidence and request testing. (Justice Project will continue to handle cases with testing underway after the grant period has expired).

Attorney General's Office: contract attorney and investigator will continue to serve as liaisons with Justice Project and county attorneys offices to facilitate evidence tracking process.

Attorney General's Office and Justice Project will submit quarterly report to ACJC as the SAA.

Attorney General's Office and Justice Project will submit quarterly report to ACJC as the SAA.

Attorney General's Office and Justice Project will complete Krone post-mortem and will complete final report as outlined in proposal.

Attorney General's Office and Justice Project will identify policy recommendations and convene stakeholders working group to promulgate policy changes.

Attorney General's Office and Justice Project will begin dissemination of final report and post mortem; the activities will be ongoing.

Attorney General's Office and the Justice Project will submit final report to ACJC as the SAA.

Attorney General's Office and Justice Project will work on Ray Krone post-mortem enhancements.

# Arizona Postconviction DNA Testing Assistance Program: Timeline

*Objective: To help defray the costs associated with postconviction DNA testing in cases of forcible rape, murder and non-negligent manslaughter where actual innocence might be demonstrated.*

Fifth Quarter

Sixth Quarter



Justice Project: will prepare cases identified for post-conviction relief hearings (Justice Project will continue to handle cases pending after the grant period has expired).

Attorney General's Office: will assist prosecutors in preparing for cases identified for post-conviction relief hearings (Attorney General's Office will continue to handle cases pending after the grant period has expired).

Attorney General's Office and Justice Project will continue work on post-mortem analyses that arise from cases identified during the grant period.

Attorney General's Office and Justice Project will complete Krone post-mortem and will complete final report as outlined in proposal.

Attorney General's Office and Justice Project will submit quarterly report to ACJC as the SAA.

Attorney General's Office and Justice Project will identify policy recommendations and convene stakeholders working group to promulgate policy changes.

Attorney General's Office and Justice Project will begin dissemination of final report and post mortem; the activities will be ongoing.

Attorney General's Office and the Justice Project will submit final report to ACJC as the SAA.

## Appendix E

(Dissemination: Youngblood exoneration)

### Larry Youngblood Post-Mortem

Larry Youngblood was convicted of brutally sodomizing a 10-year-old boy. The testimony at trial was based primarily upon eyewitness identification. DNA testing done 17 years after the conviction proved not only that Larry Youngblood did not commit the crime as he had always claimed, but that the perpetrator was a man who, left at large, committed at least two other sodomies and rapes and was eventually prosecuted in Texas. The detailed post-mortem prepared jointly by the Attorney General's Office and the Arizona Justice Project and the American Judicature Society reveals that the wrongful conviction was primarily the result of faulty eyewitness identification, possibly inflammatory bias or tunnel vision and, quite possibly, the absence of effective representation at the time of trial. The Youngblood case is known nationally because of the preservation of evidence issues in the case, and the loss of clothing that had biological material on it is a key feature of the post-mortem presentation.

### Where the Youngblood Presentation Has Been Made

- Graduate Class in Journalism at Arizona State University/Main Campus
- Justice Studies Program Presentation at ASU's Undergraduate School (2004)
- Advanced Criminal Procedure Seminar at ASU College of Law (2003, 2005)
- Arizona Police Chiefs and Commanding Officers
- National Association of Attorneys General
- Arizona Prosecuting Attorneys Advisory Council seminar
- Chandler/Gilbert Community College justice studies class
- Texas Court of Criminal Appeals seminar
- National Association of Government Attorneys in Capital Litigation
- Arizona Judicial Conference
- American Judicature Society meeting
- Annual Meeting of the Western States Psychological Association (2006)
- Psychology Undergraduate School Class at Arizona State University/West Campus

## **LIST OF KEY PERSONNEL**

### **Arizona Attorney General's Office**

Terry Goddard, Attorney General  
Kent Cattani, Attorney

### **Arizona Justice Project**

Larry Hammond, Attorney, Chair  
Carrie Sperling, Executive Director

### **Arizona Criminal Justice Commission**

Pat Nelson, Program Manager, Criminal Justice Systems Improvement Program  
Mary Marshall, Public Information Officer

## RESUMES OF KEY PERSONNEL

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### **Terry Goddard, Arizona Attorney General (biography)**

Throughout his public service career, Terry Goddard has fought to improve the lives of Arizonans – a commitment he continues as our Attorney General.

Since taking the oath as Attorney General in 2003, Terry has focused on consumer protection:

- Fighting cyber crime, especially identity theft and Internet crimes against children.
- Suing drug manufacturers and payday loan providers for abuse of consumers.
- Tackling the evils of predatory lending by taking action against companies that mislead and take advantage of homeowners.
- Going after car dealers that use deceptive advertising, including lawsuits against Precision Toyota of Tucson and Scottsdale Suzuki in Tempe.

These lawsuits have returned over \$20 million to consumers and the State and forced significant changes in business practices.

Terry has been a leader in the State's fight against methamphetamine. He also has worked hard to protect Arizona's environment. On behalf of five State agencies, he filed a multi-count lawsuit against a developer for destruction of natural and archaeological resources in Pinal County and sued Honeywell International for misrepresenting or hiding data about toxic chemicals.

Serving the public is nothing new for Terry. His first job out of law school was with the Attorney General's Office prosecuting white collar crime. He also spearheaded the effort to bring City Council Districts to Phoenix, dramatically opening up City government in 1982. The year before, he led a fight to stop an "unconscionable" gas tax increase.

Terry was elected Mayor of Phoenix four times, leading the City from 1984 to 1990. In those years, Phoenix made significant strides in expanding and modernizing law enforcement, increasing citizen participation, revitalizing downtown, and setting up nationally-recognized programs in arts, economic development and historic preservation. During his time as Mayor, Terry was named "Municipal Leader of the Year" by *City and County Magazine* and elected President of the National League of Cities.

From 1995 to 2002, Terry served as the Arizona State Director for the U.S. Department of Housing and Urban Development (HUD). He was elected to the Board of the Central Arizona Water Conservation District and served as a director of the Federal Home Loan Bank of San Francisco and the National Trust for Historic Preservation.

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**KENT E. CATTANI**  
**Arizona Attorney General's Office**  
**Phoenix, Arizona**

**WORK EXPERIENCE:**

January 2000–Present: **Arizona Attorney General's Office**, Chief Counsel, Capital Litigation; supervision and review of all pending capital cases (approximately 120) through direct review, postconviction, and federal habeas corpus stages of litigation; direct policy and legislative initiatives; coordinate statewide training for prosecutors,

February 1997–July December 2000: **Arizona Attorney General's Office**, Unit Chief/Supervising Attorney; supervision and review of federal habeas corpus matters and state court appeals; appellate practice, including capital cases in various stages of litigation

July 1991–January 1997: **Arizona Attorney General's Office**, Assistant Attorney General, Criminal Appeals Section; appellate practice, postconviction relief proceedings in capital cases, drafting opinion letters for other sections of the Attorney General's Office

March 1989–July 1991: **Beus, Gilbert & Morrill**, Phoenix, Arizona; Associate; commercial litigation, school law, and appellate practice

June 1985–July 1985, June 1986–March 1989: **Jennings, Strauss, & Salmon**, Phoenix, Arizona; Summer Associate/Associate; commercial litigation, estate planning, and insurance defense

July 1985–August 1985: **McCormick Barstow, Sheppard, Wayte & Carruth**, Fresno, California; Summer Associate

**EDUCATION:**

J.D., University of California at Berkeley, May 1986

B.S., Brigham Young University, Provo, Utah, May 1982

Major: Accounting; Minors: Economics, Spanish, Business Management  
Mesa Community College, Mesa, Arizona 1976

**ADMISSIONS TO PRACTICE LAW:**

United States Supreme Court, Ninth Circuit Court of Appeals, United States District Court, Arizona Supreme Court



## **HONORS & PROFESSIONAL ACTIVITIES:**

1993–2006: Lecturer, National Association of Government Attorneys in Capital Litigation, Arizona Prosecutor’s Association, Criminal Year Seminars, “Capital Litigation and Federal Habeas” “Confession Law”

2005, 2006: Testified before United States Senate and United States House of



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**Fax: (602) 640-6076**  
**lhammond@omlaw.com**



## Larry A. Hammond

Larry has spent over 25 years practicing in the private sector, but regards his two tours with the Department of Justice as among his most satisfying professional experiences. He served as an Assistant Watergate Special Prosecutor in 1973-74 and then returned to Justice during the Carter Administration where he worked in the Office of Legal Counsel as the First Deputy Assistant Attorney General under both Attorneys General Griffin Bell and Ben Civiletti.

### Education

- J.D., University of Texas, 1970; *Texas Law Review*, Editor-in-Chief, 1969-70; Order of the Coif
- B.A., University of Texas, 1967

### Clerkships

- U.S. Supreme Court, Justice Lewis F. Powell, Jr., 1971-73
- U.S. Supreme Court, Justice Hugo L. Black, 1971
- U.S. Court of Appeals, District of Columbia Circuit, Judge Carl McGowan, 1970-71

### Professional Recognitions And Awards

- Distinguished Honorary Alumnus Award, University of Arizona Law School, May, 2004
- Judge Learned Hand Award for Community Service, Arizona Chapter of American Jewish Committee, March, 2003
- Arizona State Bar Foundation Walter E. Craig Award for Career Service, 2001
- President's Commendation, Arizona Attorneys for Criminal Justice, January, 1997 and 1999
- Civil Libertarian of the Year, Arizona Civil Liberties Union, 1993, 2000
- Pro Bono Service Award, State Bar of Arizona, 1991
- Exceptional Service Award, U.S. Justice Department, 1980
- Federal Younger Lawyer of the Year, 1980
- Chambers USA, *America's Leading Lawyers for Business*, Litigation: White-Collar Crime & Government Investigations, 2004-2006

## Larry A. Hammond (cont'd)

- *The Best Lawyers in America*®, Commercial Litigation and Criminal Defense, editions 1995-2006
- Best of the Bar, *Business Journal*, Pro Bono, 2005

### Practice Areas

- Criminal Defense
- Litigation

### Bar Admissions

- Arizona, 1975
- California, 1971

### Court Admissions

- U.S. Supreme Court, 1977
- U.S. Court of Appeals for the Sixth Circuit, 1984
- U.S. Court of Appeals for the Ninth Circuit, 1984
- U.S. District Court, District of Arizona, 1975
- Arizona Supreme Court, 1975
- California Supreme Court, 1971

### Professional Activities

- American Judicature Society, President and member of Executive Committee, 2003-2005, Board of Directors, 1995-present, Criminal Justice Reform Committee, Chair 1992-present
- Arizona Attorneys for Criminal Justice, Justice Project Chair, 1998-present
- American Bar Association, Biological Evidence Task Force, 2003-2005
- American Bar Association, Task Force on War Crimes in the Former Yugoslavia, 1993-95
- Arizona Capital Representation Project, of Directors, 1988-present, Vice President, 1988-present
- Arizona State Bar Association, Indigent Defense Task Force, 1995-present
- Human Rights First, Lawyer Steering Committee (formerly known as the Lawyers' Committee for Human Rights)



## Larry A. Hammond (cont'd)

### Publications and Presentations

- Presentation: Speech to the Harris County Bar *The Landscape of Criminal Justice: Texas and Beyond*, May 21, 2004
- Justice Project Editorial, *Why Gideon Mattered to Hugo Black*, The Champion, January/February 2003 (reprinted in The Defender, April 2003)
- Editorial, *Justice Project: 5 Year Report*, The Defender, January 2003
- Editorial, *Restoring Confidence in the Criminal Justice System*, Judicature, 2002 (unsigned)
- *Justice Project: Status Report and Update*, The Defender, July 2002
- *Scrutiny a Must in Criminal Cases*, The Arizona Republic, January 2002 (Co-author)
- *Capital Punishment in Arizona and The "New" Death Penalty Debate*, The Defender, June 2001 (Co-author)
- *Popular Culture and The Death Penalty*, The Defender, July 2000 (Co-author)
- *Aiding the Incarcerated*, Litigation Magazine, Winter 2000 (Co-author)
- *Aryan Brother's legacy is safer prison system*, The Arizona Republic, February 6, 2000 (Co-author)
- *The Justice Project: Y2 OK!*, The Defender, January 2000 (Co-author)
- *Worldwide Concern: We Should Offer Global Support to Those Fighting for Human Rights Anywhere*, Arizona Journal, August 9, 1999 (Co-author)
- Editorial on Felony Murder: *Bad Law Needs Reining in for Sake of Fairness*, Arizona Republic, May 14, 1999
- *May God Have Mercy: A True Story of Crime and Punishment*, Judicature, November-December 1998
- *U.S. Has Everything to Gain From an International Criminal Court*, Nov. 9, 1998 Arizona Journal (reprinted in the Colorado Journal, Nevada Journal, and Washington Journal)
- *Prisons Lack Commitment to Safety*, Arizona Republic, April 12, 1998 (Co-author)



## Larry A. Hammond (cont'd)

- *Arizona's Crisis in Indigent Capital Representation*, Arizona Attorney, March 1998 (Co-author)
- *Observations on the Mock Impeachment Trial of Abraham Lincoln*, 40 Ariz.L.Rev. 351 (1998)
- Editorial on Capital Execution: *Jose Ceja Didn't Deserve to Die*, Arizona Republic, January 25, 1998
- *New Rules, on Indigent Representations*, Arizona Attorney, February, 1997 (Co-author)



**CARRIE SPERLING**  
**Sandra Day O'Connor College of Law**  
**Arizona State University**  
**P.O. Box 877906**  
**Tempe, AZ 85287-7906**  
**Carrie.Sperling@asu.edu**  
**(480) 727-7465**

**Executive Director**  
**Arizona Justice Project**

**Jan. 2008 – present**

**Visiting Clinical Associate Professor**  
**Sandra Day O'Connor College of Law**  
**Arizona State University**

**Aug. 2007 – present**

Courses:

Legal Method and Writing I&II

Aug. 2007 – May 2008

**Assistant Professor, Legal Research and Writing**  
**University of Oklahoma College of Law**

**July 2002 – May 2006**

Courses:

Accountability for Gross Violations of Human Rights  
Legal Research and Writing  
Legal Writing – Summer Early Admissions Program

July 2002 (Oxford)  
Sept. 2002 – May 2006  
June 2003

University Service:

Coach, Entertainment Law Moot Court Team (Fall 2004)  
Best Petitioner's Brief in the Nation

Coach, BALSAs Moot Court Team (Spring 2004)  
Best Brief in the Region  
Second Place Team in the Region  
Best Speaker in the Nationals - Jaytonious Perkins

Coach, APALSAs Thomas Tang Moot Court Teams (Fall 2003)  
Best Brief in the Region  
Best Speaker - Jamie Mathew  
First Place Team in the Region  
Second Place Team in the Region

Faculty Advisor for Law Review Notes and Comments (Fall 2003, Fall 2004, Fall 2005)  
Faculty Advisor for Law School Writing Requirement (Spring 2005 and Fall 2005)

**Publications:**

*Mother of Atrocities: Pauline Nyiramasuhuko's Role in the Rwandan Genocide*,  
33 Fordham Urban Law Journal 637 (2006)

Co-author, *Effective Legal Writing for Paralegals in Oklahoma* (NBI, Inc. 2003)

**Judicial Clerkships:**

**Law Clerk to United States Senior District Judge Jerry Buchmeyer**     **Aug. 2006 – Aug. 2007**  
**Dallas, Texas**

**Law Clerk to United States Magistrate Judge Paul D. Stickney**     **March 1998 – Sept.**  
**Dallas, Texas**     **1998**

**Other Legal Experience:**

**Sole Practitioner, Civil and Criminal Litigation**     **Sept. 1998 – Aug. 2006**  
Federal Death Penalty Habeas  
Civil Rights Litigation

**Regional Director, ACLU of Texas**     **Sept. 1994 – Sept. 1997**  
**Dallas, Texas**

**Associate, Shannon, Gracey, Ratliff & Miller**  
**Fort Worth, Texas**

**Education:**

**University of Houston Law Center**  
**J.D., *cum laude* 1992**

Associate Editor and Executive Board Member, Houston Law Review  
Order of the Barons  
John Witherall Award recipient  
Class Rank – top 15%

**Texas Christian University**  
**B.A., *magna cum laude* 1989**

Phi Beta Kappa  
Dean's List 1985-1989  
Varsity Golf Team  
Academic Athletic Award (receiving 4.0 G.P.A. while playing varsity athletics)  
President, Chi Delta Mu (academic society for religion-studies students and professors)

**Selected Professional Speaking Engagements:**

Using Psychology to Inform What We Teach Students to Write (March 2008)  
Rocky Mountain Legal Writing Conference

*Daubert's* Double Standard (February 2006)  
Dallas Criminal Defense Lawyer's Association

What Every Lawyer Should Know When Working with a Gay or Lesbian Client (February 2005)  
United Students – University of Oklahoma College of Law

Ethics in Federal Practice (January 2005)  
Winning the Federal Case Before Trial – CLE sponsored by OU College of Continuing  
Education, Dallas, Texas

Rape as a War Crime (Spring 2004)  
Women's Outreach Center – The University of Oklahoma

War Crimes Against Women (Fall 2003)  
Women's Outreach Center – The University of Oklahoma

**Professional Affiliations:**

Admitted to the Texas Bar in 1992  
Admitted to the Northern District of Texas and the Fifth Circuit Court of Appeals  
Member and Faculty Representative of the Ruth Bader Ginsburg American Inn of Court

**References:**

Judy Stinson  
Director of Legal Method and Writing  
Sandra Day O'Connor College of Law  
P.O. Box 877906, Tempe, AZ 85287-7906  
(480) 965-8512

William Murray Tabb  
Associate Dean of Academics  
The University of Oklahoma College of Law  
300 Timberdell Rd., Norman, OK 73019  
(405) 325-4699

The Honorable Jerry Buchmeyer  
Senior United States District Judge  
1100 Commerce St., Room 1544, Dallas, TX 75242  
(214) 753-2295



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## Arizona Criminal Justice Commission

### PAT NELSON

1635 W. Tyson St. Chandler, AZ 85224  
(480) 963-3411 (home) / (602) 364-1152 (work)

#### WORK EXPERIENCE:

**02/01 - Present**      **Arizona Criminal Justice Commission, Phoenix, AZ**  
**Criminal Records Program Manager**

The System Improvement program manager under direction of the Commission Director, provide grant administration and review for multiple Federal grants entering the State of Arizona for the enhancement of criminal justice records and laboratory improvements. Monitor individual projects for fiscal and programmatic conformance, and act as the liaison with cognizant Federal authorities. Conduct surveys of criminal justice agencies to obtain information and assist in the presentation and publication of information to agencies within the State of Arizona. Provide grant administration for state grant programs concerning criminal justice agencies and laboratories. Supervise the activities of personnel assigned to the Program.

- monitor, analyze and summarize legislation for changes to criminal statutes
- create, audit, implement and maintain data dictionary standards and criminal literals database for the State criminal history database.
- compose federal grant applications for various criminal justice improvement projects
- provide grant management for statewide interoperability \$500,000 and \$745,000 Federal grant projects
- plan, organize, coordinate, and report on the development and implementation of standards and literals for the criminal justice records system in Arizona
- monitor individual projects for fiscal and programmatic conformance
- recruit and facilitate select workgroups and special task forces
- implement policy direction from the Commission to work groups and task forces
- develop final standards and literals vocabulary and data dictionary for state system
- evaluate, audit, and review grant applications for approval of criminal justice grant projects
- organize and prioritize multiple projects to meet deadlines

**2000/2001**      **AZ Supreme Court, Family Law Unit, Phoenix, AZ**  
**National Criminal History Program Specialist**

- evaluated, audited and reviewed all grant applications for approval and monitoring of grant projects
- handled all procurement and contract of services
- supervised contractor efforts, provided management of funds received and prepare status reports
- provided training to judges and court personnel statewide
- organized and prioritized multiple projects to meet deadlines
- developed and published court disposition reporting user manual
- managed all aspects of distance learning computer training
- utilized facilitation skills for collaboration with multiple internal division programs

**1994 -2000 AZ Dept. of Transportation, Motor Vehicle Division, Phoenix, AZ  
Trainer I - Criminal Justice Liaison / Management Analyst II /  
Program Project Specialist I**

- analyzed and evaluated methods of management and operational procedures
- recommended new methods, procedures and techniques for operational improvements of various programs
- analyze proposed legislation for fiscal and procedural impact to Division
- reviewed all legislation passed annually to determine impact to Division
- developed and implemented policies and procedures driven by legislative changes to Title 28
- determined civil/criminal offenses from legislation for Motor Vehicle database system updates
- coordinated notification of Motor Vehicle database updates to criminal justice agencies
- analyzed process and system reporting requirements for implementation of improvements / \$300,000 Federal grant given jointly to MVD, AOC, and DPS
- responsible for liaison efforts with over 400 state criminal justice agencies
- coordinated multiple programs effecting training for both courts and Division personnel
- developed course curriculum and present ongoing training for court, law enforcement personnel, and prosecutor's with regards to the division policies and procedures
- assisted in development of strategic planning for policy program and established measurement process
- assisted in automated information system analysis and design for the driver license program
- managed joint budget Federal grant project with Supreme Court with respect to Traffic Ticket Assistance Program mandated by Title 28
- published training manual for statewide use by all criminal justice agencies
- analyze legislation passed to create implementation procedures for the division
- facilitated ADOT's Executive Quality Council weekly meetings

**1988 – 1991 Western Horizons Federal Credit Union, Mesa, AZ  
Operations Manager**

- supervised staff of 45 in member service, telecommunications and teller areas within corporate office
- conducted audits and processed insurance, death, and disability claims
- responsible for the sending and receiving of bank wires
- maintained coordination between corporate office and 5 branch offices
- responsible for training of all department personnel regarding policy and procedures

**1978 – 1988 Arizona State Savings and Credit Union, Phoenix, AZ  
Supervisor Visa/ATM, Accounting, Loan Officer**

- assisted in development and implementation of VISA/ ATM program
- administrator of arbitration procedures
- responsible for cardholder inquires
- submission of all losses to bond company
- programmed and investigated all lost/stolen account activity
- verified and balanced ATM deposits daily
- completed bank balance recaps and prepared vault cash verification daily
- compiled figures from night records to balance corporate headquarters and 7 branch offices daily
- counseled and assisted members with Investment notes
- evaluated and approved applications for credit lines, real estate, personal, and auto loans.

**Mary Marshall**  
**PIO, Arizona Criminal Justice Commission**

**Education**

B.A., Florida International University, Miami, FL; 1993.  
Major: Communication; concentration: political science  
Continuing education: George Washington University, 16-week editing course, 1999.  
Working knowledge of Associated Press, Chicago and GPO styles.

**Professional Experience**

**Public Information Officer/Legislative Liaison**

*Arizona Criminal Justice Commission, Phoenix, AZ; 8/04-present*  
Write, edit and produce quarterly e-newsletter, *ACJC Views and News*. Write and distribute press releases. Implement grassroots campaigns, including writing and distributing impact statements and letters to Arizona's congressional delegation, state legislature and media. Write and edit web site content. Worked with webmaster to re-design web site. Work with program managers to promote individual programs (victim's assistance; criminal records systems improvement; drug, gangs and violent crimes). Work with Statistical Analysis Center to edit and promote research findings and reports.

**Communications Manager**

*International Association of Fire Chiefs, Fairfax, VA; 7/99-7/04*  
Wrote, edited and produced twice-monthly trade publication, *On Scene*. Researched, wrote, edited and managed production for specialty publications. Titles included *Providing for the Common Defense: Requirements for the Nation's Fire Service for Homeland Security*; *Fire Chief's Guide to Smallpox Vaccination* and *Leading the Way—Homeland Security in Your Community*. Also responded to media inquiries, wrote press releases and editorial content promoting IAFC and the fire service.

**Project Editor**

*Congressional Quarterly, Washington, DC; 6/98-6/99*  
Project editor for reference publications. Titles included the *Federal Regulatory Directory* and the *Washington Information Directory*. Duties included managing full-time researchers as well as contracting with freelance proofreaders, indexers and designers. Also responsible for database management.

**Federal Research Director/Products Manager**

*Capitol Advantage, Vienna, VA; 1/95-6/98*  
Managed production of print publications including congressional directories, membership directories, media guides and newsletters. This included database management, layout, pre-press production and working with printers. Also managed research for print and electronic products.

**Editorial Assistant**

*U.S. Congress Handbook, McLean, VA; 10/93-12/94*  
Assisted with research and production of congressional directories, including desktop publishing. Also responsible for general office duties, including database management, customer relations, order processing.

**Public Affairs Assistant**

*Broward Community College, Fort Lauderdale, FL; 6/92-8/93*  
Promoted the programs for Broward Community College's Office of Student Affairs. Produced a quarterly newsletter, ghostwrote articles for the assistant director, was part of the grant writing team.

## Appendix E

### PREVIOUS AWARDS

The Arizona Criminal Justice Commission has previously been awarded the following grants as the State Administrative Agency for the laboratories.

#### National Forensic Science Formula and Discretionary Grants

<b>Grant</b>	<b>Number</b>	<b>Amount</b>
National Forensic Sciences Coverdell Formula Grant Cycle I	2003-DN-BX-0004	\$60,245
National Forensic Sciences Coverdell Formula Grant Cycle II	2003-DN-BX-0014	\$66,351
National Forensic Sciences Coverdell Formula Grant Cycle III	2004-DN-BX-0192	\$127,752
National Forensic Sciences Coverdell Formula Grant Cycle IV	2005-DN-BX-0004	\$179,178
National Forensic Sciences Coverdell Formula Grant Cycle FY 2006	2006-DN-BX-0016	\$202,568
National Forensic Sciences Coverdell Formula Grant FY 2007	2007-CD-BX-0034	\$233,369
National Forensic Sciences Coverdell Discretionary Grant Cycle I	2003-DN-BX-1004	\$110,439
National Forensic Sciences Coverdell Discretionary Grant Cycle II	2004-DN-BX-0192	\$80,000
National Forensic Sciences Coverdell Discretionary Grant Cycle III	2005-DN-BX-0004	\$95,000
National Forensic Sciences Coverdell Discretionary Grant FY 2007	2007-CD-BX-0034	\$95,000

## DNA Capacity Enhancement and Backlog Reduction Grants

<b>Grant</b>	<b>Number</b>	<b>Amount</b>
DNA Capacity Enhancement FY 2004	2004-DN-BX-K067	\$376,622
DNA Backlog Reduction FY 2004	2004-DN-BX-K040	\$430,047
DNA Capacity Enhancement FY 2005	2005-DA-BX-K006	\$387,065
DNA Backlog Reduction FY 2005	2005-DN-BX-K055	\$329,164
DNA Capacity Enhancement FY 2006	2006-DN-BX-K149	\$481,397
DNA Backlog Reduction FY 2006	2006-DN-BX-K040	\$244,503
DNA Backlog Reduction FY 2007	2007-DN-BX-K0078	\$672,720

**BUDGET DETAIL**

A. **Personnel**- List each position by title and name of employee, if available. Show the annual salary rate and the percentage of time to be devoted to the project. Compensation paid for employees engaged in grant activities must be consistent with that paid for similar work within the applicant organization.

<u>Name/Position</u>	<u>Computation</u>	<u>Cost</u>
AZ Justice Project - Project Manager	1440 Hrs @ \$50/hr	\$72,000

**A. TOTAL \$72,000**

B. **Fringe Benefits** - Fringe benefits should be based on actual known costs or an established formula. Fringe benefits are for the personnel listed in budget category (A) and only for the percentage of time devoted to the project. Fringe benefits on overtime hours are limited to FICA, Workman's Compensation, and Unemployment Compensation.

<u>Name /Position</u>	<u>Computation</u>	<u>Cost</u>
AZ Justice Project - Project Manager	\$72,000 X 36.81% ERE rate	\$26,500

**B. TOTAL \$26,500**

**TOTAL A. Personnel & B. Fringe Benefits from above \$98,500**

C. **Travel** - Itemize travel expenses of project personnel by purpose (e.g., staff to training, field interviews, advisory group meeting, etc.). Show the basis of computation (e.g., two people to 3-day training at \$X airfare, \$X lodging, \$X subsistence). In training projects, travel and meals for trainees should be listed separately. Show the number of trainees and unit costs involved. Identify the location of travel, if known. Indicate source of Travel Policies applied, Applicant or Federal Travel Regulations.

<u>Purpose of Travel</u>	<u>Location</u>	<u>Computation</u>	<u>Source of Policy</u>	<u>Cost</u>
Travel for attorneys, investigators to meet with inmate, witnesses and retrieve court docs	State of AZ	100 miles x 42.5cent x 10 trips	State	\$425
<b>C. TOTAL</b>				<b>\$425</b>

**D. Equipment** - List non-expendable items that are to be purchased. (Note: Organization's own capitalization policy for classification of equipment should be used). Expendable items should be included in the "Supplies" category. Applicants should analyze the cost benefits of purchasing versus leasing equipment, especially high cost items and those subject to rapid technical advances. Rented or leased equipment costs should be listed in the "Contractual" category. Explain how the equipment is necessary for the success of the project. Attach a narrative describing the procurement method to be used.

<u>Item</u>	<u>Computation</u>	<u>Cost</u>
<b>Copy Machine for Justice Project</b>	1 @ \$6,800 Toshiba e-Studio 600 copier	\$6,800
State of Arizona Digital Copier Contract - Contract # EPS06012201 used to estimate pricing for copier.		
<b>D. TOTAL</b>		<b>\$6,800</b>

**E. Supplies** - List items by type (office supplies, postage, training materials, copy paper, and other expendable items such as books, hand held tape recorders) and show the basis for computation. Generally, supplies include any materials that are expendable or consumed during the course of the project.

ACJC	postage, general office supplies, copy paper, CDs	\$1,750
Justice Project	2 Laptop computers @ 1600 each = \$3200	
	3 File Cabinets (4 drawer, vertical, metal) @ 250 each = \$750	
	1 telephone @ \$50.00 plus monthly service @ 35.00 per mo. x 12 = \$470	
	Misc. supplies (file folders, paper, labels, notepads, copier toner, etc.) = \$3,000	\$7,420
<b>E. TOTAL</b>		<b>\$9,170</b>

**F. Construction**

<u>Supply Item</u>	<u>Computation</u>	<u>Cost</u>
<b>F. TOTAL</b>		<b>\$0</b>

G. **Consultants/Contracts** - Indicate whether applicant's formal, written Procurement Policy or the Federal Acquisition Regulations are followed.

Consultant Fees: For each consultant enter the name, if known, service to be provided, hourly or daily fee (8-hour day), and time on the project. Consultant fees in excess of \$450 per day require additional justification and prior approval from OJP. Name of Consultant

<u>Name of Consultant</u>	<u>Service Provided</u>	<u>Computation</u>	<u>Cost</u>
			<b>Sub-TOTAL</b>
			<b>\$0</b>

**Consultant Expenses:** List all expenses to be paid from the grant to the individual consultant in addition to their fees (i.e., travel, meals, lodging, etc.)

<u>Item</u>	<u>Location</u>	<u>Computation</u>	<u>Cost</u>
			<b>Sub-TOTAL</b>
			<b>\$0</b>

**Contracts:** Provide a description of the product or services to be procured by contract and an estimate of the cost. Applicants are encouraged to promote free and open competition in awarding contracts. A separate justification must be provided for sole source contracts in excess of \$100,000.

<u>Item</u>		<u>Cost</u>
Attorney Services / AG's Office	\$100/hr @8hrs/day x 375 days over 18 mo	\$300,000
Attorney Service / Justice Project	\$100/hr @8hrs/day x 375 days over 18 mo	\$300,000
P/T Investigator - AG's Office	\$75/hr@10 hrs per week x 78 weeks (18mo	\$58,500
Investigator Services - Justice Project	\$75/hr @8hrs/day x 375 days over 18mo	\$225,000
Expert Analysis for DNA related evidence - AG Office		\$75,000
Expert Analysis for DNA related evidence - Justice Project		\$110,000
State Crime Lab - analysis of DNA evidence -Justice Project		\$55,000
State Crime Lab - analysis of DNA evidence - AG Office		\$22,000
		<b>Sub-TOTAL</b>
		<b>\$1,145,500</b>

<b>TOTAL</b>	<b>G. Consultants/Contracts from above</b>	<b>\$1,145,500</b>
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**H. Other Costs** - List items (e.g., rent, reproduction, telephone, janitorial or security services, and investigative or confidential funds) by major type and the basis of the computation. For example, provide the square footage and the cost per square foot for rent, and provide a monthly rental cost and how many months to rent.

<u>Description</u>	<u>Computation</u>	<u>Cost</u>
Office Space Rental from ASU School of Law	400 sq ft x \$12.50 Ft = \$5,000 mo.	
	\$5,000 x 18 months	\$90,000
ACJC Program Manager	350 hrs @ 35.93/hr +36.44% ere	\$17,159
ACJC Public Information Officer	400 Hrs @ 35.08/Hr. + 36.44% ere	\$19,145
	<b>H. TOTAL</b>	<b>\$126,304</b>

**I. Indirect Costs-** Indirect cost are allowed only if the applicant has a Federally approved indirect cost rate. A copy of the rate approval, (a fully executed, negotiated agreement), must be attached. If the applicant does not have an approved rate, one can be requested by contacting the applicant's cognizant Federal agency, which will review all documentation and approve a rate for the applicant organization, or if the applicant's accounting system permits, cost may be allocated in the direct costs categories.

<u>Description</u>	<u>Computation</u>	<u>Cost</u>
	<b>I. TOTAL</b>	<b>\$0</b>

**Budget Summary:** When you have completed the budget worksheet, transfer the totals for each category to the spaces below. Compute the total project costs.

<u>Budget Category</u>		<u>Amount</u>
A. Personnel	\$	72,000
B. Fringe Benefits	\$	26,500
C. Travel	\$	425
D. Equipment	\$	6,800
E. Supplies	\$	9,170
F. Construction	\$	-
G. Consultant/Contracts	\$	1,145,500
H. Other	\$	126,304
	<b>TOTAL DIRECT COSTS \$</b>	<b>1,386,699</b>
I. Indirect Cost	\$	-
	<b>TOTAL PROJECT COSTS \$</b>	<b>1,386,699</b>

## DNA Postconviction Grant Program Budget Narrative

**Purpose:** The Budget Detail Worksheet may be used as a guide to assist you in the preparation of the budget and budget narrative. You may submit the budget and budget narrative using this form or in the format of your choice (plain sheets, your own form, or a variation of this form). However, all required information (including the budget narrative) must be provided. Any category of expense not applicable to your budget may be deleted.

**A. Personnel** - List each position by title and name of employee, if available. Show the annual salary rate and the percentage of time to be devoted to the project. Compensation paid for employees engaged in grant activities must be consistent with that paid for similar work within the applicant organization.

**Arizona Justice Project – Project Manager**

**TOTAL \$72,000**

The position will have the oversight for the development and implementation of the plan to canvass public defenders, criminal defense lawyers, AACJ and other organizations to identify existing inmate cases that may qualify for consideration under this grant (i.e., homicide and sexual assault convictions where DNA testing might reasonably demonstrate actual innocence). Project Manager will oversee the establishment of teams to evaluate candidate cases i.e., identify lawyers and investigators with whom we would contract as indicated in the grant and to the extent useful, integrate them into student teams for purposes of carrying out the evaluations. Project Manager will assist in making case-by-case determinations with respect to the utilization of private DNA consultants and laboratories or state-managed laboratories as indicated in the grant proposal; oversee the filing and pursuit of those cases deemed appropriate for judicial review; coordinate with, and remain in communication with, the ACJC staff and the Office of the Attorney General responsible for this project; oversee the process of preparing detailed post-mortems on those cases that result in release (again, as contemplated by the grant proposal).

**B. Fringe Benefits** - Fringe benefits should be based on actual known costs or an established formula. Fringe benefits are for the personnel listed in budget category (A) and only for the percentage of time devoted to the project. Fringe benefits on overtime hours are limited to FICA, Workman's Compensation, and Unemployment Compensation.

**AZ Justice Project – Project Manager**

**TOTAL \$26,500**

ERE is calculated at 36.81% for the AZ Justice Project Manager position & Public Information responsible for the administration, monitoring and reporting of this grant.

**TOTAL PERSONNEL & FRINGE BENEFITS**

**\$98,500**

**C. Travel** - Itemize travel expenses of project personnel by purpose (e.g., staff to training, field interviews, advisory group meeting, etc.). Show the basis of computation (e.g., six people to 3-day training at \$X airfare, \$X lodging, \$X subsistence). In training projects, travel and meals for trainees should be listed separately. Show the number of trainees and the unit costs involved. Identify the location of travel, if known. Indicate source of Travel Policies applied Applicant or Federal Travel Regulations.

For the Justice Project -

Travel would be estimated to reflect in a typical case in which the Justice Project would be litigating or preparing to litigate would include at least the following trips:

- (1) 2 (or more) trips to the prison. Inmates are located at more than 20 different facilities throughout the state so it is difficult to predict with precision the length of trip, but typically any round trip would be at least 100 – 150 miles.
- (2) 2 (or more) trips to the county courthouse where the case (and the court files) are located. Since we will be trying to rely on contract lawyers regionally located already, these trips might be shorter than they would be if every lawyer and investigator had to come from Phoenix or Tucson – but estimation would be 100 miles round trip.
- (3) 2 (or more) trips to meet with prosecutors and state witnesses. Same distance assumptions would apply as above (100 miles round trip).
- (4) 2 (or more) trips to interview witnesses. Same distance assumptions would apply as above (100 miles round trip).

In summary – every case that gets beyond the initial screening and is either taken to court or is intensively evaluated, estimation would be as many as 8 – 10 trips each case in the 100 to 150 mile range at 42.5 cents per mile.

100 miles x 42.5 cents per mile x 10 trips = \$425.00

**TOTAL \$425.00**

**D. Equipment** - List non-expendable items that are to be purchased. Non-expendable equipment is tangible property having a useful life of more than two years and an acquisition cost of \$5,000 or more per unit. (Note: Organization's own capitalization policy may be used for items costing less than \$5,000). Expendable items should be included either in the "supplies" category or in the "Other" category. Applicants should analyze the cost benefits of purchasing versus leasing equipment, especially high cost items and those subject to rapid technical advances. Rented or leased equipment costs should be listed in the "Contractual" category. Explain how the equipment is necessary for the success of the project. Attach a narrative describing the procurement method to be used.

The Justice Project will require the purchase of a copy machine in order to copy appropriate court and litigation documents for each case file. Pricing for copy machine was estimated by utilizing the State of Arizona Digital Copier Contract - Contract Number EPS060122-1.

Toshiba e-Studio 600 Black & White copier with large capacity feeder.  
Copy machine @ \$6,800

**TOTAL \$ 6,800**

**E. Supplies** - List items by type (office supplies, postage, training materials, copying paper, and expendable equipment items costing less than \$5,000, such as books, hand held tape recorders) and show the basis for computation. (Note: Organization's own capitalization policy may be used for items costing less than \$5,000). Generally, supplies include any materials that are expendable or consumed during the course of the project.

Arizona Criminal Justice Commission – minimal supplies to develop and forward grant agreements reports, instructions for grant administration, final report documentation & recording to CDs.

Postage, general office supplies, copy paper, CDs

ACJC Total                      \$1750

Justice Project – supplies necessary to administer project include:

2 laptop computers that will have software to tie into Justice Project database that is maintained simultaneously at ASU and at Osborn Maledon Law Firm.

3 File cabinets to maintain file records for Justice Project

1 Copier – to be able to copy appropriate file documents from large case files

1 telephone / monthly phone service

Miscellaneous Office Supplies (file folders, paper, labels, notepads, copier toner, etc.)

2 laptop computers @ \$1600 each = \$3200

3 File Cabinets (4 drawer, vertical, metal) @ \$250 each = \$750

1 telephone @ 50.00 plus monthly service @ 35 per mo. x 12 = \$470

Misc. supplies listed above = \$3,000

Justice Project Total    \$7,420

**TOTAL \$ 9,170**

**F. Construction** - As a rule, construction costs are not allowable. In some cases, minor repairs or renovations may be allowable. Check with the program office before budgeting funds in this category.

**TOTAL -0-**

**G. Consultants/Contracts** - Indicate whether applicant's formal, written Procurement Policy or the Federal Acquisition Regulations are followed. **Consultant Fees:** For each consultant enter the name, if known, service to be provided, hourly or daily fee (8-hour day), and estimated time on the project. Consultant fees in excess of \$450 per day require additional justification and prior approval from OJP.

**Contracts:** Provide a description of the product or service to be procured by contract and an estimate of the cost. Applicants are encouraged to promote free and open competition in awarding contracts. A separate justification must be provided for sole source contracts in excess of \$100,000.

The Attorney General's Office will contract an attorney at an hourly rate of \$100 per hour for 3,000 hours over the 18 month grant period. The \$100 rate was arrived at by using the rate the Arizona Supreme Court uses to pay defense attorney's to handle state post-conviction cases proceedings pursuant to Arizona Revised Statutes 13-4041. The attorney will provide assistance to other prosecuting agencies in working cases under review by the Justice Project. The contract attorney will work as a liaison with the Justice Project to coordinate obtaining evidence for post conviction DNA testing and will be available to help screen cases that warrant DNA testing.

Attorney Services for the Justice Project will be acquired through 15 separate contracts (one for each county in AZ) to allow project to utilize attorney services in all areas of the state since cases will originate at locations throughout the state. Contracts will be made for each attorney at an average of \$20,000 each at the same rate stipulated for defense counsel indicated in state law, ARS 13-4041 of \$100 per hour for a project total of 3,000 hours over the 18 month grant. Hiring will be done by evaluation of expertise and knowledge.

***This grant application has indicated legal counsel fees consistent with Arizona law and consider the rate of \$100.00 per hour to be necessary and reasonable when dealing with Postconviction cases. As required by the OMB cost principals, this grant request is providing documentation for the \$100.00 per hour legal counsel rate which exceeds the \$450 a day consultant rate. This application is requesting prior approval to use a legal counsel rate of \$100.00 per hour for legal consultant services of 3,000 hours over a 18 month grant period. Appropriate justification and supporting data has been attached to allow the case-by-case approval from granting agency per OMB cost principals.***

<b>Attorney Services – AG's Office</b>	Contract \$100/hr @ 8hrs/day x 375 days over 18mo. \$300,000
<b>Attorney Services – Justice Project</b>	Contract \$100/hr @ 8hrs/day x 375 days over 18mo. \$300,000

Investigative Services will be utilized by both the AG's Office and the Justice Project to track down witnesses, previous attorneys and other pertinent evidence for forcible rape, murder and non-

negligent homicide cases. The Justice Project will be utilizing 2 primary investigators, one designated for the Phoenix area and the other designated for the Tucson, southern region. It is further estimated that several contracts for investigator services will be issued for cases residing in remaining areas of the state.

<b>P/T Investigator – AG’s Office</b>	\$75/hr @ 10 hrs per week x 78 weeks (18 months)	\$58,500
<b>Investigator Services – Justice Project</b>	\$75/hr @ 8 hrs/day x 375 days over 18 months	\$225,000

As cases move forward it will be necessary for the AG Office to procure the services of DNA forensic experts. The Attorney General’s Office is requesting \$2,500 per case for expert DNA analysis.  
 $\$2500.00 \times 30 \text{ cases} = \$75,000.$

The Justice Project is requesting funds recognizing that the discovery of DNA evidence often requires expert consultation. The Justice Project has conferred with four DNA consultants and agreement has been reached to provide services to the Justice Project grant program at rates far below the regular hourly rate.

The Justice Project is requesting \$110,000 made on the following assumptions:

- (1) Out of all the cases they evaluate, 25 involve DNA that need intense consulting services.
- (2) Of those 25, the consultants will probably be asked to look at 20. If they secure 10 hours of consulting for each case at \$175 per hour rate for expert consultant = \$1750 for each case totaling \$35,000.
- (3) Assume that out of 20 cases, the Justice Project determines that further DNA testing is necessary in half of those cases. \$2,500 per case to re-evaluate = \$25,000
- (4) Assume that of those 10 cases, the Justice Project will go to court and file a Postconviction relief petition in five cases. \$10,000.00 per case x 5 = \$50,000.00

$(\$35,000 + \$25,000 + \$50,000 = \$110,000)$

<b>Expert Analysis for DNA related evidence – AG Office</b>	\$ 75,000
<b>Expert Analysis for DNA related evidence – Justice Project</b>	\$110,000

It is estimated by the Arizona Department of Public Safety State Crime Laboratory that the average cost of these cases are \$2,200 per case. Estimate includes cost of supplies, overtime and related costs to develop DNA profiles and search CODIS as necessary.

The Justice Project feels it is reasonable to project up to 25 cases, roughly one percent of the total, will emerge from the review that will require biological testing.

The AG’s Office is requesting \$22,000 to help defray the costs of the DNA testing at the DPS state labs in cases that are currently pending before its office as well as to assist with cases the counties may currently have pending (estimated at 10).

$10 \text{ cases} \times \$2200 \text{ lab cost} = \$22,000$

The Justice Project estimates 1% of the cases (25) will emerge from the re-review that will require biological testing.  $25 \text{ cases} \times \$2200 \text{ lab cost} = \$55,000$

<b>State Crime Lab – analysis of DNA evidence – AG Office</b>	<b>\$ 22,000</b>
<b>State Crime Lab – analysis of DNA evidence – Justice Project</b>	<b>\$ 55,000</b>

**TOTAL \$1,145,500**

**H. Other Costs** - List items (e.g., rent, reproduction, telephone, janitorial or security services, and investigative or confidential funds) by major type and the basis of the computation. For example, provide the square footage and the cost per square foot for rent, or provide a monthly rental cost and how many months to rent.

**Office Space Rental for Justice Project**

Because of the scope of this project, the Justice Project has been in conversations with the Dean and administration at the Sandra Day O'Connor College of Law at Arizona State University about securing office space. An estimate has been received from the Law School that they will provide a suite of offices on a monthly rental of \$5,000. The offices are very centrally located above the law building and offices are furnished. The offices would be used by contract attorneys who may be working on various phases of the project, by the administrative support and investigators who may be engaged in various facets of the project, and by students engaged in the process of evaluating and pursuing DNA-related claims. The space would also securely house and maintain the files and materials associated with this project. The offer of space by the ASU College of Law carries another benefit that should materially enhance the product this project produces and its visibility. ASU is the home of a relatively new DNA-related forensic science program, and two of the country's leaders in the DNA field are among the most well respected experts in the field. The location of this project in the same physical facility cannot help but assure us of greater aid from this academic community.

Office space is approximately 400 square feet consisting of 2 offices and a reception area. They are located immediately above the rotunda in the law school. This space is regarded within the academic community as prime space. As indicated in attachment, relevant market for the area would be the Class B submarket for Tempe. The square footage rates are indicated in the \$19.63 range. The rates in Tempe are nearly the lowest of any in the metropolitan area. (The rate being given to the project is below the market rate of \$19.63 a square foot which would have totaled, \$19.63 x 400 sq. feet = \$7,852.) Law School is providing office space rental for \$5,000. monthly. Rent includes utilities and general office furniture.

Contract for 18 months with ASU Law School.

\$5,000 per month rental agreement for 18 month project	<b>RENT</b>	<b>\$90,000</b>
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**Arizona Criminal Justice Commission**

The Arizona Criminal Justice Commission is representing the Arizona Attorney General's Office and the Justice Project and will be responsible for the administration, monitoring and reporting elements of the grant. Personnel and ERE related expenses are listed in the appropriate category for dedicated agency personnel (program manager's) spending approximately 17% of her time to manage the grant as allowed by the Office of Justice Program Office of the Comptroller Financial Guide – noting allowable costs when an agency will not provide the services without costs. The Arizona Criminal Justice Commission does not receive state funding so all work related to this grant involve costs related to manage the grant. Personnel and ERE related expenses are listed for ACJC Public Information Officer who will dedicate 400 hours to the development of the final report, dissemination of final



report, posting of information to ACJC website and be designated as editor for all written materials (i.e., the post mortem materials). PIO will draft a communications plan that will include press releases(s) and fact sheet(s) upon the completion of the project. Information will be disseminated to the local, state and national media.

<b>ACJC Program Manager</b>	350 hours @ 35.93/hr = \$12,576	
	12,576 x 36.44% ERE = \$4,583	Total \$17,159

<b>ACJC Public Information Officer</b>	400 hours @ 35.08 hr. = \$ 14,032	
	14,032 X 36.44% ere - \$5,113	Total \$19,145

2.6% Administration \$36,304

**TOTAL \$126,304**

**I. Indirect Costs** - Indirect costs are allowed only if the applicant has a Federally approved indirect cost rate. A copy of the rate approval, (a fully executed, negotiated agreement), must be attached. If the applicant does not have an approved rate, one can be requested by contacting the applicant's cognizant Federal agency, which will review all documentation and approve a rate for the applicant organization, or if the applicant's accounting system permits, costs may be allocated in the direct costs categories.

**TOTAL -0-**

**Budget Summary-** When you have completed the budget worksheet, transfer the totals for each category to the spaces below. Compute the total direct costs and the total project costs. Indicate the amount of Federal requested and the amount of non-Federal funds that will support the project.

**Budget Category**

<b>A. Personnel</b>	<b>\$72,000</b>
<b>B. Fringe Benefits</b>	<b>\$26,500</b>
<b>C. Travel</b>	<b>\$ 425</b>
<b>D. Equipment</b>	<b>\$ 6,800</b>
<b>E. Supplies</b>	<b>\$ 9,170</b>
<b>F. Construction</b>	<b>0</b>
<b>G. Consultants/Contracts</b>	<b>\$1,145,500</b>
<b>H. Other</b>	<b>\$126,304</b>
<b>Total Direct Costs</b>	<b>\$1,386,699</b>
<b>I. Indirect Costs</b>	<b>0</b>

## Sole Source Justification Form

Awardee: Arizona Criminal Justice Commission

Grants.gov Funding Opportunity No: 2008-NIJ-1775

Award Number (where applicable): NA

Budget Category/Line Item to which this form applies:

Category (i.e. consultants, equipment, etc.): CONTRACTS

Line Item and Dollar Amount: Attorney Services – Attorney General’s Office  
Contract Attorney. \$300,000

For **each line item** identified in Section I., please provide sole source justification as it relates to the checklist below [*you should address each item on the checklist, even if it does not apply in your particular situation*]. Where a particular item does not apply, place an “N/A” in the space provided.

**1. Provide a brief description of the program and what is being contracted for**

Having recognized the importance of DNA testing and the advances made in this scientific analysis with regard to exonerating the innocent, the state of Arizona enacted a statute (A.R.S. 13-4240) that allows for post-conviction DNA analysis in cases in which a reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing.

The Arizona Attorney General’s Office is proposing to provide assistance to other prosecuting agencies in working on cases under review by the Justice Project to help track down and locate biological evidence in cases where post-conviction DNA could possibly exonerate the innocent. A contract attorney will work as a liaison with the Justice Project to coordinate obtaining evidence for post-conviction DNA testing, and will serve as a liaison to other prosecution agencies. The attorney will be available to help screen cases that warrant DNA testing and will work to facilitate an expeditious resolution of DNA claims pursued in post-conviction proceedings.

The attorney will provide assistance to other prosecuting agencies in working case under review by the Justice Project. The contract attorney will work as a liaison with the Justice Project to coordinate obtaining evidence for post-conviction DNA testing and will be available to help screen cases that warrant DNA testing.

The attorney will also handle or assist other prosecuting agencies in handling any evidentiary hearings that may be warranted based on the results of DNA testing at the post-conviction stage.

## **2. Expertise of the contractor:**

*[Provide any information that makes this individual uniquely qualified to perform the work (unique experience, qualifications, expertise, education, etc.)]*

- Management:

The contract attorney must be able to coordinate efforts with the various prosecuting agencies throughout the State. The attorney must be able to organize and document information from a variety of sources and must be able to work efficiently with DNA experts and consultants.

- Responsiveness:

The contract attorney must demonstrate an ability to work well with both prosecutors and defense attorneys to facilitate an expeditious resolution of meritorious claims.

- Knowledge of the program:

The attorney must have experience handling evidentiary hearings or trials involving DNA evidence and must be familiar with state rules of criminal procedure relating to petitions for post-conviction relief, as well as provisions relating specifically to DNA testing at the post-conviction stage.

- Experience of contractor personnel:

As outlined above, the contract attorney must have extensive experience in handling trials or evidentiary hearings.

- Results of a market survey to determine competition availability or, if one was not conducted, why not:

The Attorney General's Office will contract any attorney at an hourly rate of \$100 per hour for 3,000 hours over the 18 month grant period. The \$100 rate was arrived at by using the rate the Arizona Supreme Court uses to pay defense attorneys to handle state post-conviction cases proceedings pursuant to Arizona Revised Statutes 13-4041.

### **3. Time constraints:**

- When contractual coverage is required and why: The work on the part of the State will depend primarily on the number of cases identified by the Justice Project as requiring input or assistance from the Attorney General's Office. Hiring an attorney and DNA experts and consultants on a contract basis will enable to the State to provide assistance when required, without creating a permanent position that may not be necessary following the completion of the anticipated work on this project.
- Impact on program if dates are not met: Resolution of legitimate claims involving DNA evidence will be delayed, and the educational component of the project will be delayed because we anticipate using case results as a training tool for prosecutors.
- How long it would take another contractor to reach the same level of competence (equate in dollars if appropriate): See above.

### **4. Uniqueness:**

There are very few prosecutors with the experience level necessary to effectively litigate the complex issues arising in cases where DNA evidence is involved. Advances in technology have made testing more sophisticated, but have also created issues requiring in-depth analysis, such as the significance of mixed samples involving DNA from more than one person. There is a limited pool of available DNA experts qualified to provide analysis and testimony in these types of cases.

### **5. Other points that should be covered to strengthen your justification:**

Because the project is limited to an 18 month period, it is difficult to hire and train personnel under the normal recruitment process. The project could face substantial delays and risk to ability to complete the goals of the project if qualified candidates are not found to fill salaried positions. For this reason, the project requests authorization to use contractual services instead of traditional salary and fringe expenses to provide the services necessary to complete the project. Using contracted attorneys will be more efficient because the attorneys are paid only for hours worked on the project and only for a limited time period necessary to complete the project. An evaluation of available and competent attorneys will be conducted by the Attorney General's Office to ensure properly qualified contractors are used on the project.

### **6. Provide a declaration that this action is "in the best interest of the Office of Justice Programs," the awarding agency:**

The Arizona Attorney General's Office believes that the type of program proposed here, involving a cooperative effort by prosecutors and defense attorneys, will further the interests of justice by removing obstacles that might impede the resolution of legitimate claims in state court post-conviction proceedings. The proposed project will also enable the State and the Justice Project to work together in providing instruction to attorneys and others interested in the criminal justice system regarding how DNA evidence can be used in criminal cases, and, to the extent the project yields information regarding wrongful convictions, will provide an opportunity for more in-depth analysis of the criminal justice system, with an emphasis on what can be done to avoid wrongful convictions.

**The representative of the grantee listed below hereby requests Sole Source justification for the above-referenced item(s):**



**3/21/08**

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**Signature of Grantee Representative**

**Date**

**Pat Nelson, Program Manager**

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**Printed Name of Grantee Representatives**

*Note: Please be as thorough as possible with your request. Your efforts can greatly increase the likelihood of a positive response from the Office of the Comptroller, as well as reduce the amount of time it will take to fully resolve this issue.*

## Sole Source Justification Form

Awardee: Arizona Criminal Justice Commission

Grants.gov Funding Opportunity No: 2008-NIJ-1775

Award Number (where applicable): NA

Budget Category/Line Item to which this form applies:

Category (i.e. consultants, equipment, etc.): CONTRACTS

Line Item and Dollar Amount: Attorney Services – Justice Project Contract  
Attorney Services / 15 contracts at \$20,000 each totaling \$300,000.

For **each line item** identified in Section I., please provide sole source justification as it relates to the checklist below *[you should address each item on the checklist, even if it does not apply in your particular situation]*. Where a particular item does not apply, place an “N/A” in the space provided.

**1. Provide a brief description of the program and what is being contracted for**

Having recognized the importance of DNA testing and the advances made in this scientific analysis with regard to exonerating the innocent, the state of Arizona enacted a statute (A.R.S. 13-4240) that allows for postconviction DNA analysis in cases in which a reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing.

In Arizona, the nonprofit Arizona Justice Project is frequently the resource of last resort for indigent inmates seeking postconviction relief, including those cases with a need for DNA analysis.

The Justice Project is requesting \$300,000 for full-time contract attorney services for 18 months based on a reduced rate of \$100 per hour for this review and re-examination of its cases, as well as documentation of all results and contribution to the completion of the Krone post-mortem analysis

Attorney Services for the Justice Project will be acquired through 15 separate contracts (one for each county in AZ) to allow project to utilize attorney services in all areas of the state since cases will originate at locations throughout the state. Contracts will be made for each attorney at an average of \$20,000 each at the same rate stipulated for defense counsel indicated in state law, ARS 13-4041 of \$100 per hour for a project total of 3,000 hours over the 18 month grant. Hiring will be done by evaluation of expertise and knowledge.

Over the last nine and a half years, the Justice Project Management Team has worked with, and become acquainted with, a very sizeable percentage of the criminal defense bar in Arizona – including both members and non-members of Arizona Attorneys for

Criminal Justice (AACJ). In those years, we have learned that relatively few criminal defense lawyers possess the experience and training necessary (1) to conduct a post-conviction relief (PCR) investigation, and (2) to work productively with volunteer law students, private investigators and consultants. We have also worked with every public defender organization in the State of Arizona. Once the contract is awarded, the JP Management Team will communicate with each public defender organization and with each volunteer criminal defense lawyer in each county in Arizona. We will ask them to help us identify lawyers who would have the capacity, experience training and interest to assist on this project. We anticipate that very few lawyers will have these qualifications, but we believe that we will be able to identify at least one in most counties. We also anticipate that in some rural counties, a single lawyer may undertake the review responsibility for multiple counties. We expect this to be true in southwestern Arizona (Yuma and La Paz Counties), northeast Arizona (Navajo and Apache Counties) and southeast Arizona (Greenlee and Santa Cruz Counties).

We believe it may be wise to designate one attorney/contractor located either in Phoenix or Tucson who would assume coordinating responsibilities for the other contracting attorneys and for the investigators. This contractor/attorney would need to be someone who could devote a very significant amount of time to the Project and to the contract. It would also be most desirable if this particular attorney were already familiar with the DNA-related cases evaluated by the Justice Project. Familiarity and prior experience with the other contracting attorneys and investigators would also be a valuable asset.

In spite of the fact that we believe that we already know well most of the lawyers who might be available to undertake this work, before making any final decisions, we expect to canvas the membership of Arizona Attorneys for Criminal Justice (AACJ) – a statewide organization that has over 500 members – as well as the Arizona Public Defender Association (APDA) which has over 1000 Arizona public defenders and contract lawyers representing every county in this state. The Chair of the Justice Project will be speaking at the APDA convention on June 21, 2007 at a plenary session at which most members of APDA will be in attendance. One topic of the speech is the opportunities afforded in Arizona by this potential Grant. These additional steps will assure us that we have not failed to identify any attorneys who may be qualified by training and experience and have the time required to undertake the work contemplated by this Project.

## **2. Expertise of the contractor:**

*[Provide any information that makes this individual uniquely qualified to perform the work (unique experience, qualifications, expertise, education, etc.)]*

- Management:

As noted above, we expect any attorney retained a contract basis to be able to manage the teams of law students, investigators and consultants in an efficient way. This is a skill, we have learned over the years, possessed by relatively few practicing criminal defense lawyers.



- Responsiveness:

We believe it is critically important to the success of this project that we have attorney contractors who are responsive both to the managers of this undertaking and to the students, investigators and consultants.

- Knowledge of the program:

We believe it will be very important that the attorney contractors – to the extent possible – have worked with The Justice Project in the past and understand the evaluation process used by the project.

- Experience of contractor personnel:

It is our goal to have experienced criminal defense lawyers undertake these responsibilities. In our own experience, however, we have often found that the most reliable attorneys are newer lawyers who worked with The Justice Project while they were in law school. In every case, we will look for the contractor with the best combination of skills and experience.

- Results of a market survey to determine competition availability or, if one was not conducted, why not:

We have done no market survey. We believe that we are uniquely aware of the availability of attorneys and their levels of experience.

Attorney Services for the Justice Project will be acquired through as many as 15 separate contracts (one for each county in AZ) to allow the project to utilize attorney services in all areas of the state since cases will originate at locations throughout the state. Contracts will be made for each attorney at an average of \$20,000 each at the same rate stipulated for defense counsel indicated in state law, ARS 13-4041 of \$100 per hour for a project total of 3,000 hours over the 18 month grant. Hiring will be done by evaluation of expertise and knowledge.

### **3. Time constraints:**

- When contractual coverage is required and why:

We expect that the lawyer contractors will be identified at the outset of the work on the grant and will remain engaged so long as appropriate DNA-based cases are found.

- Impact on program if dates are not met:

If we are unable to begin to work with contract attorneys covering each county promptly, it will delay the onset of our canvassing efforts.

- How long it would take another contractor to reach the same level of competence (equate in dollars if appropriate):

It would be very difficult for a lawyer with no experience in this field and with no knowledge of the local legal community to be able to replicate the levels of confidence we anticipate. It would delay the work of the project by some significant number of months.

**4. Uniqueness:**

As is evident from the above, the skills required are unique. Very few criminal defense lawyers are still in PCR work, and even fewer of them are familiar with the local public defenders, prosecutors and courts in each county.

**5. Other points that should be covered to strengthen your justification:**

Because the project is limited to an 18 month period, it is difficult to hire and train personnel under the normal recruitment process. The project could face substantial delays and risks to ability to complete the goals of the project if qualified candidates are not found to fill salaried positions. For this reason, the project requests authorization to use contractual services instead of traditional salary and fringe expenses to provide the services necessary to complete the project. Using contracted attorneys will be more efficient because the attorneys are paid only for hours worked on the project and only for a limited time period necessary to complete the project. An evaluation of available and competent attorneys will be conducted by the Justice Project to ensure properly qualified contractors are used on the project.

**6. Provide a declaration that this action is “in the best interest of the Office of Justice Programs,” the awarding agency:**

**The representative of the grantee listed below hereby requests Sole Source justification for the above-referenced item(s):**



3-21-2008

\_\_\_\_\_  
Signature of Grantee Representative

\_\_\_\_\_  
Date

Pat Nelson

\_\_\_\_\_  
Printed Name of Grantee Representatives

*Note: Please be as thorough as possible with your request. Your efforts can greatly increase the likelihood of a positive response from the Office of the Comptroller, as well as reduce the amount of time it will take to fully resolve this issue.*



## Sole Source Justification Form

Awardee: Arizona Criminal Justice Commission

Grants.gov Funding Opportunity No: 2008-NIJ-1775

Award Number (where applicable): NA

Budget Category/Line Item to which this form applies:

Category (i.e. consultants, equipment, etc.): CONTRACTS

Line Item and Dollar Amount: Justice Project – Expert Analysis Services /  
\$110,000

For **each line item** identified in Section I., please provide sole source justification as it relates to the checklist below *[you should address each item on the checklist, even if it does not apply in your particular situation]*. Where a particular item does not apply, place an “N/A” in the space provided.

### **1. Provide a brief description of the program and what is being contracted for**

Having recognized the importance of DNA testing and the advances made in this scientific analysis with regard to exonerating the innocent, the state of Arizona enacted a statute (A.R.S. 13-4240) that allows for postconviction DNA analysis in cases in which a reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing.

In Arizona, the nonprofit Arizona Justice Project is frequently the resource of last resort for indigent inmates seeking postconviction relief, including those cases with a need for DNA analysis.

Recognizing that the discovery of DNA evidence often requires expert consultation, the Justice Project is requesting \$110,000 dollars for expert analysis related to DNA evidence as outlined below: The Justice Project has conferred with four DNA consultants and agreement has been reached to provide services to the Justice Project grant program at rates far below the regular hourly rate.

The Justice Project is requesting \$110,000 made on the following assumptions:

- (1) Out of all the cases they evaluate, 25 involve DNA that need intense consulting services.
- (2) Of those 25, the consultants will probably be asked to look at 20. If they secure 10 hours of consulting for each case at \$175 per hour rate for expert consultant = \$1750 for each case totaling \$35,000.
- (3) Assume that out of 20 cases, the Justice Project determines that further DNA testing is necessary in half of those cases. \$2,500 per case to re-evaluate = \$25,000

(4) Assume that of those 10 cases, the Justice Project will go to court and file a Postconviction relief petition in five cases. \$10,000.00 per case x 5 = \$50,000.00 (\$35,000 + \$25,000 + \$50,000 = \$110,000)

It should be noted that over the last nine and a half years, the Justice Project has, at one time or another, been in communication with each of the DNA consultants/experts recommended for involvement in this Project. There are very few knowledgeable experts in this field. We have located one laboratory and one consulting academician in Arizona and one laboratory and another academician in southern California. As we communicate with criminal defense lawyers and private investigators, we will remain sensitive to the identification of additional experts and consultants, but as of this date, we are unaware of other experts who would possess the combination of skills and experience required for this Project.

## **2. Expertise of the contractor:**

*[Provide any information that makes this individual uniquely qualified to perform the work (unique experience, qualifications, expertise, education, etc.)]*

- Management:

All DNA experts and consultants are busy. It is important that any retained consultant or expert in this field be sensitive to the importance of time management so that the assigned task can be completed promptly.

- Responsiveness:

See above.

- Knowledge of the program:

As noted above, each of these DNA consultants and experts has had some experience with our Project and knows the manner in which we staff our evaluations and the roles we expect DNA consultants and experts to play.

- Experience of contractor personnel:

As noted above, each of these consultants and experts has had significant experience. The information provided with our Grant Application remains accurate as to each of the four individuals and entities.

- Results of a market survey to determine competition availability or, if one was not conducted, why not:

We have performed no market survey for the reasons noted above, but we remain reasonably confident that our Project is aware of the primary available resources and should continue to remain aware of any new resources that may become available.

### **3. Time constraints:**

- When contractual coverage is required and why:

The services of DNA contractors and experts may be required at a slightly later date than the services required of attorneys and investigators. We envision that some few months will be required to begin identifying cases in which DNA evidence may be present. Therefore, it would not be a major dislocation if the onset of DNA-related work did not commence until a few months into the contract. The Justice Project does, however, have several cases now that could profit from immediate DNA evaluation and testing. Assuming contractors are available, they could begin to work on these cases immediately.

- Impact on program if dates are not met:

If we are unable to commence the work of the DNA consultants and experts within a few months, it would certainly delay our ability to complete the evaluation of those cases that may have promise. It would be impossible accurately to identify and pursue DNA cases without the help of these individuals.

Unlike attorneys and contractors, DNA consultants and experts – if available – can perform the services with little in the way of additional background and experience. The DNA technology and protocols are now well known to almost all experts in this field.

- How long it would take another contractor to reach the same level of competence (equate in dollars if appropriate):

See above.

### **4. Uniqueness:**

The contractors identified in our Grant Application are unique in that they are essentially the only private qualified DNA experts available.

### **5. Other points that should be covered to strengthen your justification:**

Because the project is limited to an 18 month period, it is difficult to hire and train personnel under the normal recruitment process. The project could face substantial delays and risk to ability to complete the goals of the project if qualified candidates are not found to fill salaried positions. For this reason, the project requests authorization to use contractual services instead of traditional salary and fringe expenses to provide the services necessary to complete the project. Using contracted expert analysts will be more efficient because the expert analysts are paid only for hours worked on the project and

only for a limited time period necessary to complete the project. An evaluation of available and competent attorneys will be conducted by the Justice Project to ensure properly qualified contractors are used on the project.

**6. Provide a declaration that this action is “in the best interest of the Office of Justice Programs,” the awarding agency:**

**The representative of the grantee listed below hereby requests Sole Source justification for the above-referenced item(s):**



3/21/2008

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Signature of Grantee Representative

---

Date

Pat Nelson

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Printed Name of Grantee Representatives

*Note: Please be as thorough as possible with your request. Your efforts can greatly increase the likelihood of a positive response from the Office of the Comptroller, as well as reduce the amount of time it will take to fully resolve this issue.*

## Sole Source Justification Form

Awardee: Arizona Criminal Justice Commission

Grants.gov Funding Opportunity No: 2008-NIJ-1775

Award Number (where applicable): NA

Budget Category/Line Item to which this form applies:

Category (i.e. consultants, equipment, etc.): CONTRACTS

Line Item and Dollar Amount: Justice Project – Investigating Services / \$225,000

For **each line item** identified in Section I., please provide sole source justification as it relates to the checklist below *[you should address each item on the checklist, even if it does not apply in your particular situation]*. Where a particular item does not apply, place an “N/A” in the space provided.

### **1. Provide a brief description of the program and what is being contracted for**

Having recognized the importance of DNA testing and the advances made in this scientific analysis with regard to exonerating the innocent, the state of Arizona enacted a statute (A.R.S. 13-4240) that allows for postconviction DNA analysis in cases in which a reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing.

In Arizona, the nonprofit Arizona Justice Project is frequently the resource of last resort for indigent inmates seeking postconviction relief, including those cases with a need for DNA analysis.

Investigative Services will be utilized by the Justice Project to track down witnesses, previous attorneys and other pertinent evidence for forcible rape, murder and non-negligent homicide cases. The Justice Project will be utilizing 2 primary investigators, one designated for the Phoenix area and the other designated for the Tucson, southern region. It is further estimated that several contracts for investigator services will be issued for cases residing in remaining areas of the state.

Justice Project is requesting \$225,000 for investigative services (\$75 per hour) to track down witnesses, previous attorneys and other pertinent evidence for forcible rape, murder and non-negligent homicide cases where biological evidence is available for testing.

In March, 2007, the Chair of the Justice Project, Larry Hammond, and one of its senior volunteers, Victoria Tandy, met with the statewide private investigators association at their quarterly meeting in Casa Grande, Arizona. The purpose of that meeting was to solicit expressions of interest in working with the Project either on a pro bono basis or on the \$75 per hour basis contemplated by this Grant Application. As a result of that presentation, the Project has now identified approximately a dozen private investigators



who possess the requisite, training and experience to assist the Project in undertaking this work. As noted above, the process of selecting individual investigators will require consultation with the two private investigators who have devoted very considerable amounts of time to the work of the Justice Project (Rich Robertson in Phoenix and Randy Downer in Tucson). The Project is already beginning to work with several of these investigators who have expressed a willingness to work with the Project on a pro bono basis. Our selection of individual investigators will be informed by the experience we are now gaining, as well as by the recommendations of Messrs. Robertson and Downer. As with attorneys, the skills required for investigation of post-conviction cases is specialized. It is also important that any investigator contracted to engage in this Project must be familiar with the defense lawyers, prosecutors and judges in each county. We, therefore, contemplate that the Project will find it necessary to contract with a number of investigators.

## **2. Expertise of the contractor:**

*[Provide any information that makes this individual uniquely qualified to perform the work (unique experience, qualifications, expertise, education, etc.)]*

- Management:

The most important management skill of an investigator on this contract will be the management of the investigator's on time to assure that the work is done promptly.

- Responsiveness:

Responsiveness is key. The Project has had experience both with very responsive investigators and with some who have been less reliable. Investigators are often overextended and called on to provide services in emergency situations that may distract from this DNA-related work. We will want to identify investigators who understand the importance of prioritizing and responsiveness.

- Knowledge of the program:

We believe it will be important that the investigators with whom the Project contracts are knowledgeable about the work of the Justice Project generally and of the ways in which DNA evidence can be located and utilized.

- Experience of contractor personnel:

- 

The Justice Project Management Team, consisting of the faculty coordinators at each of Arizona's major law schools, our attorney intake coordinator (Jenifer Lamb-Swisher) and I, have had experience in working with investigators around the state. We believe that our collective experience will be valuable in selecting appropriate contractors.

- Results of a market survey to determine competition availability or, if one was not conducted, why not:
- 

We have conducted no market survey. We have not deemed it necessary in light of our close communication with the Arizona Association of License Private Investigators (AALPI) and that organization's statewide coverage.

### **3. Time constraints:**

- When contractual coverage is required and why:

It is our expectation that contracts will be entered into as soon after the commencement of the contract period as possible so that the investigators can assist in the early phases of case identification and preliminary evaluation.

- Impact on program if dates are not met:

If this priority is not met, we believe it will delay the entire Project as the services of an investigator may well prove necessary in some cases in order to determine whether biological evidence may even be available.

- How long it would take another contractor to reach the same level of competence (equate in dollars if appropriate):

We think it would be significantly difficult for an investigator inexperienced in post-conviction work and having no knowledge of the retrieval of biological evidence to provide useful assistance.

### **4. Uniqueness:**

As noted above, the investigators contemplated for this Project need to both be familiar with the post-conviction relief process and be acquainted with the lawyers, prosecutors and judges in each county. Very few investigators meet these criteria.

### **5. Other points that should be covered to strengthen your justification:**

Because the project is limited to an 18 month period, it is difficult to hire and train personnel under the normal recruitment process. The project could face substantial delays and risk to ability to complete the goals of the project if qualified candidates are not found to fill salaried positions. For this reason, the project requests authorization to use contractual services instead of traditional salary and fringe expenses to provide the services necessary to complete the project. Using contracted investigators will be more efficient because the investigators are paid only for hours worked on the project and only for a limited time period necessary to complete the project. An evaluation of available

and competent investigators will be conducted by the Justice Project to ensure properly qualified contractors are used on the project.

**6. Provide a declaration that this action is “in the best interest of the Office of Justice Programs,” the awarding agency:**

**The representative of the grantee listed below hereby requests Sole Source justification for the above-referenced item(s):**



3-21-2008

---

Signature of Grantee Representative

---

Date

Pat Nelson

---

Printed Name of Grantee Representatives

*Note: Please be as thorough as possible with your request. Your efforts can greatly increase the likelihood of a positive response from the Office of the Comptroller, as well as reduce the amount of time it will take to fully resolve this issue.*