



# The Commonwealth of Massachusetts

*Committee for Public Counsel Services*

*Private Counsel Division*

*Criminal Appeals Unit*

*Innocence Program*

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## **COMMITTEE FOR PUBLIC COUNSEL SERVICES INNOCENCE PROGRAM**

The Committee for Public Counsel Services has received a Department of Justice grant to support an innocence program. Grant funds will be used, in part, to conduct forensic analyses and to secure expert and investigative services for cases accepted by the CPCS Innocence Program. The CPCS Innocence Program is available to assist defendants and counsel with active cases as well as defendants whose cases have been closed.

Application for CPCS Innocence Program services may be made by counsel or by defendants. We encourage counsel to refer any case which meets the criteria set out below, even if counsel no longer represents the defendant.

If counsel refers a case which is accepted by the CPCS Innocence Program then ordinarily counsel will continue to represent the defense with the assistance of the Innocence Program.

If a defendant's direct application is accepted by the Innocence Program, then counsel certified by CPCS will be assigned to represent the defendant.

**PURPOSE:** The primary purpose of the CPCS Innocence Program is to exonerate indigent defendants who are actually innocent of the Massachusetts State crimes of which they have been convicted.

**CRITERIA:** The CPCS Innocence Program will only represent indigent defendants who have been convicted of Massachusetts state crimes and who claim actual innocence. In each case there must be some evidence which exists, or might exist, that could possibly establish innocence. (See examples, below). The highest priority are given to cases involving serious felonies for which the defendant is currently serving a substantial sentence. A case may be eligible for assistance from the CPCS Innocence Program whether or not DNA evidence might be available to establish innocence.

**ACTUAL**

**INNOCENCE:** A person is actually innocent of a crime only if he or she did not commit the crime.

**HOW TO REFER**

**A CASE:** Counsel should refer cases by completing a "Screening Questionnaire - Counsel Referral."

**Current Clients:** Counsel should consult with his or her client before making a referral, and have the client sign the "Authorization for Release of Information and Communication with Current and Previous Legal Counsel." **In the ordinary course, counsel will continue to represent a defendant whose case is accepted by the CPCS Innocence Program.**

**Former Clients:** Counsel should complete as much of the "Screening Questionnaire - Counsel Referral" as possible. A closed case may be referred without consultation with the former client and without a signed authorization.

**Defendants:** Defendants may apply for assistance directly by completing the "Client Screening Questionnaire."

**CONTACT:** If a defendant needs help completing the Client Screening Questionnaire, he or she may call the CPCS Innocence Program, collect at 617-482-6212, Mondays, Tuesdays, Thursdays or Fridays. If the defendant is in state prison the defendant may call the CPCS Innocence Program by using the CPCS code: \*9009#.

**EXAMPLES OF CASES IN WHICH EVIDENCE EXISTS, OR MIGHT EXIST,  
WHICH COULD POSSIBLY ESTABLISH INNOCENCE.**

1. DNA Evidence. This includes cases in which evidence was not previously subjected to DNA testing, as well as cases in which evidence was subjected to older DNA testing procedures with inconclusive results.
2. Introduction at trial of potentially flawed "scientific" evidence such as:
  - a. Compositional bullet lead analysis'
  - b. Fingerprint identification;
  - c. Tool mark identification;
  - d. Bite mark identification;
  - e. Hair microscopy identification;
  - f. Opinion of arson (evidence that a fire was set);
  - g. Opinion as to cause of death, including but not limited to shaken baby syndrome; or
  - h. Opinion as to time of death.
3. Evidence of a false confession.
4. Recantation by a key witness.
5. Reliable confession by a third party.
6. Newly discovered witness with exculpatory information.
7. Misconduct by the police or the prosecution, including the withholding of exculpatory evidence.