



CPCS INNOCENCE PROGRAM APPLICATION

Screening Questionnaire: Counsel Referral

The purpose of this questionnaire is to help determine whether the case you are referring qualifies for assistance from the CPCS Innocence Program. The CPCS Innocence Program only represents indigent defendants who have been convicted of a Massachusetts state crime and who claim actual innocence. A person is actually innocent of a crime **only** if he or she did not commit the crime.

This questionnaire seeks information which may be covered by the attorney-client privilege. Please consult with your client before completing this form, and **have your client sign the release on the last page**. If you wish to refer a **closed** case, and no longer have contact with your former client, you may do so without consulting with your former client and without a signed release.

If an open case is accepted by the CPCS Innocence Program, referring counsel may choose to continue to represent the defendant, with the assistance of the CPCS Innocence Program or counsel may choose to have the case reassigned.

Please send the completed questionnaire and any client release to:

CPCS Innocence Program, 75 Federal Street, 6th Floor, Boston, MA 02110.

If applicable, please provide the following documents with this questionnaire:

- a. Defendant's appellate brief(s).
- b. Any appellate decisions.
- c. Any Rule 30 motion that is currently pending or has been decided, and any Rule 30 decisions.
- d. Any Rule 30 discovery motions for access to evidence, and/or any motions for funds for investigation, forensic testing, or expert witness fees. Include any trial court rulings, any appeals, and any appellate decisions.

A: BASIC INFORMATION

1. Client's legal name:
2. Client's Inmate Number (if currently incarcerated):
3. If applicable, where is your client incarcerated?
4. If not incarcerated, what is your client's current address?
5. Date of Birth:
6. How does your client identify for the following categories (if known)?¹

Race:

- Black
 White
 LatinX
 Asian
 Pacific Islander
 Native American
 Other: _____

Gender:

- Male
 Female
 Non-Binary
 Transgender
 Other: _____

What is your source of this information?

- Client Self-Identified
 Presumed
 Third-Party

What is your source of this information?

- Client Self-Identified
 Presumed
 Third-Party

7. What is your client's preferred language (if known)?

- | | |
|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> English | <input type="checkbox"/> Haitian |
| <input type="checkbox"/> Spanish | <input type="checkbox"/> Vietnamese |
| <input type="checkbox"/> Portuguese | <input type="checkbox"/> Russian |
| <input type="checkbox"/> French | <input type="checkbox"/> Arabic |

¹ This question is being asked for data purposes only. Your answer in no way impacts your client's application to the Innocence Program

- Khmer Hindi
 Mandarin Chinese Italian
 Other: _____

8. How does your client prefer to be addressed by others?

PRONOUNS

- He/him
 She/her
 They/them
 Other: _____

9. Has your client asserted their factual innocence? Yes No

10. What were the initial charges (from complaint or indictment)? Please indicate the lead charge.

11. Docket Numbers

a. Trial Court:

b. Appeals Court:

c. SJC:

12. Do you have any concerns about your client's competency and/or criminal responsibility, now or at the time of conviction/ incident? Yes No

If yes, please describe, and indicate if these issues were previously raised/litigated:

13. Is your client currently serving time for any other convictions (if known)?

Yes No

If yes, please explain?

14. Is your client still in custody? Yes No

If yes, when will your client be parole eligible (if known)?

What is your client's wrap date (if known)?

15. If not in custody, has your client completed their entire sentence, or are they still on probation or parole?

Completed sentence On probation On parole

If not on probation/parole, does your client face any other restraints on liberty or collateral consequences (e.g. immigration, SORB)?

16. Has your client, or anyone on their behalf, contacted any other innocence program for assistance, such as the Boston College Innocence Program, New England Innocence Project, or the Innocence Project (New York)?

Yes No

If yes, please specify which organization and explain the outcome.

B: ARREST AND INVESTIGATION

1. What is the date(s) of the incident?
2. What is the date of the arrest?
3. Has your client been continuously incarcerated since their arrest?
 Yes No

If no, please explain:

4. Which police department(s) investigated the case? If multiple police departments were involved, please indicate the lead department.
5. Which prosecutor's office handled the case?
 Berkshire County DA's Office Norfolk County DA's Office
 Bristol County DA's Office Plymouth County DA's Office
 The Cape and Islands DA's Office Suffolk County DA's Office
 Essex County District DA's Office Worcester County DA's Office
 Hampden County DA's Office
 Middlesex County DA's Office
 Northwestern County DA's Office (e.g. Franklin/ Hampshire)
6. **Identification Procedures**
Please check the box next to any identification procedure used in the case:
 Photo Array: (police show a witness a set of photographs)
 Show Up: (police present a single person or photograph to an eyewitness).
 Lineup: (police show a witness several people lined up next to each other).
 In-Court Identification: (witness identifies you in court).
 Unsure
 No Identification Procedures

7. Police Interrogation Methods

If your client was interrogated by the police, please check the boxes next to any statements that apply:

- Interrogation lasted longer than 4 hours.**
- Interrogation not recorded**
- Police coerced/pressured to confess**
- Promised leniency for cooperation**
- Suffered from mental illness**
- Drug/alcohol intoxication or withdrawal**
- Police threatened to take children**
- Needed translator but none provided**
- Other: _____**

8. Did your client make statements to the police? Yes No

If so, what were they?

9. DNA and Biological Samples

Before trial, were any of the following samples taken from your client or from the alleged victim/decedent? Check all that apply:

From Client:

- Hair**
- Semen**
- Blood**
- Nail Scrapings/ Clippings**
- Fingerprints**
- Saliva**
- Other: _____**

From Alleged Victim/Decedent:

- Hair**
- Semen**
- Blood**
- Nail Scrapings/ Clippings**
- Fingerprints**
- Saliva**
- Other: _____**

10. Physical Evidence.

Before trial, was any physical evidence taken from your client or the scene that you know about? Check all that apply:

- Clothing
- Sheets/Bedding
- Cigarette Butts
- Drinking cups

- Knife
- Gun
- Other: _____

C: TRIAL INFORMATION**1. Was your client convicted after a trial or as a result of a guilty plea?**

If there was a trial, was it a jury or a bench trial?

- Jury Bench

What was the length of trial in days?

What was the date of conviction?

2. List the conviction(s) including charge(s) and sentence(s). Please include each conviction and the associated sentence. Note if sentences are concurrent or consecutive.

3. Was your client charged with any codefendants? Yes No

If yes, what are their names? Please include dates of birth if known.

Were they charged with the same offenses as your client? (If not, please indicate any differences)

Did they plead guilty or go to trial?

Were codefendants tried together? Yes No

Did any codefendants testify against your client at trial? Yes No

Were the codefendants convicted? If so, what was their sentence(s)?

Was your client convicted as a joint venturer? Yes No

Please indicate if there is anything else you think it is important for the Innocence Program to know about any co-defendant issues in your client's case.

4. Who represented the client at trial?

5. Was trial counsel Appointed or Hired?

6. What was the defense at trial?

Check all that apply:

- Eyewitness(es) testimony
- Location data (e.g., map records from phone)
- Video
- Alibi: _____
- Phone calls/text messages
- Statements made to police/investigator
- Statements made to others
- Mistaken ID
- Digital evidence
- False confession
- Consent by victim
- Self-defense
- "Insanity" defense, lack of criminal responsibility, or diminished capacity
- Other: _____

7. Did your client testify? Yes No

If yes, please give a brief description of the testimony.

8. If there was a plea, was it an Alford plea? Yes No**9. What was the name of the trial prosecutor?****10. What was the name of the trial judge?**

D: APPELLATE AND POST-CONVICTION WORK

1. If there was a plea, has a motion to withdraw the plea been filed?

Yes No

If yes, what was the result?

2. If there was a trial, was the conviction appealed?

3. What was the name(s) of the appellate attorney(s)?

4. Was appellate counsel Appointed or Hired?

5. What was the name(s) of the appellate prosecutor(s)?

6. If the direct appeal has not yet been heard, please explain the current procedural posture of the case (for example, awaiting trial transcription; the defendant's brief has been filed; the Commonwealth's brief has been filed).

7. If the conviction was affirmed by the Appeals Court, was further appellate review sought? Yes No

If so, what was the result?

8. Has a motion for a new trial ever been filed? Yes No

If so, how many?

When was the most recent motion for new trial filed?

Who was counsel on that motion?

When was that motion resolved?

9. Is there a motion for a new trial pending now? Yes No

If yes, please explain the basis for the pending new trial motion (i.e., ineffective assistance of counsel; newly discovered evidence).

10. Has a federal habeas petition ever been filed? Yes No

If so, when?

Was your client represented by counsel? Yes No

If so, who?

When was the habeas denied?

11. Has your client ever had a parole hearing? Yes No

If yes, did your client make any admissions or confessions at the parole hearing? Yes No

If yes, please explain.

E: YOUR PERSPECTIVE

- 1. Give a brief description of the facts of the case.**

2. What evidence exists or might exist that could possibly establish your client's innocence?

Possibilities include, but are not limited to: (i) new DNA evidence (either biological evidence that was not previously subjected to DNA testing, or was subjected to former DNA testing procedures with inconclusive results); (ii) admission at trial of unreliable expert witness evidence pertaining to compositional analysis of bullet head, fingerprints, tool marks, bite marks, hair microscopy, shaken baby syndrome, arson, time or cause of death; (iii) evidence that a confession was false; (iv) recantation by a key witness; (v) reliable confession of a third party; (vi) newly discovered witness with exculpatory information; (vii) misconduct by the police or the prosecution including the withholding of exculpatory evidence.

- New Fact Witnesses**
- New Scientific Evidence**
- Changes in Science** (For example, arson, "shaken baby syndrome," hair - analysis, eye-witness identification).
- New Physical Evidence**
- Physical Evidence Never Tested**
- Other:** _____

3. Why was the evidence not presented at trial?

4. Have you filed any post-conviction motions for funds? Yes No

If yes, when did you file them?

Please describe the purpose of your funds motions and the outcome.

5. **Have you made any efforts under Chapter 278A to obtain access to evidence for testing?** Yes No

If a motion has been filed seeking access to the evidence, what was the result?

6. **What specific assistance are you seeking from the CPCS Innocence Program?** Check all that apply.

- Expert funds**
- Investigator assistance**
- Assistance locating police reports or other case documents**
- Assistance navigating work with a conviction integrity unit**
- Strategic advice**
- Co-counsel to assist with the preparation and litigation of a motion**
- Other:**

7. **Please include any other information that you think might be helpful in evaluating whether this case is appropriate for the CPCS Innocence Program.**

8. **If this case is accepted by the CPCS Innocence Program, would you prefer to continue to represent your client, with the assistance of the CPCS Innocence Program, or would you prefer the case be reassigned to new counsel?**

F: AUTHORIZATION FOR THE RELEASE OF INFORMATION AND COMMUNICATION WITH CURRENT AND PREVIOUS LEGAL COUNSEL

I, _____, hereby authorize any
(insert client's name)

and all entities and persons, including but not limited to, my current and former attorneys, to release to the Committee for Public Counsel Services ("CPCS") Innocence Program, its staff or student representatives, and/or such other attorney or screening entity as designated by the CPCS Innocence Program, any and all records, files, reports, correspondence, material and information of any kind related to the following case:

_____,
(insert trial court docket number)

for which I am seeking CPCS Innocence Program services. I fully understand that there may be statutes, rules, and regulations that protect the confidentiality of some of the records, files, reports, correspondence, material and information covered by this release, and I understand that this release authorizes and directs my current and prior attorneys to disclose information to representatives of the CPCS Innocence Program and/or its designates that may be privileged and/or confidential. This authorization for release of information is made solely to permit the CPCS Innocence Program to evaluate my application for legal representation. Communications with the CPCS Innocence Program are protected by the attorney-client privilege and cannot be disclosed without my permission to anyone other than my prior and current attorneys.

I further understand that the CPCS Innocence Program currently works in partnership with the New England Innocence Project (NEIP) and the Boston College Innocence Program (BCIP) to identify potentially meritorious innocence claims, and I,

_____, hereby give the CPCS Innocence Program
(insert client's name)

authorization, at its discretion, to designate NEIP and/or BCIP to review my application and to share any materials and information that I provide with NEIP and/or BCIP for the purpose of screening my case. I understand that, although the CPCS Innocence Program, NEIP, and BCIP are separate organizations, the CPCS Innocence Program may work collaboratively with either or both organizations for the purpose of screening my case and determining whether counsel should be assigned. I further understand that in the event that a decision is made to assign counsel, the assignment will be made by the CPCS Innocence Program to a member of the CPCS post-conviction panel. I consent to have my case screened by both programs, and further authorize the CPCS Innocence Program

to release any and all documents, correspondence, pleadings and other information contained in its file to NEIP and/or BCIP for this purpose. I likewise authorize NEIP and/or BCIP to release any and all information pertaining to the screening of my case to the CPCS Innocence Program, also for the purpose of screening my case and determining whether to assign counsel.

By my signature below, I represent that this Authorization for Release of Information and Communication with Current and Previous Legal Counsel is voluntary and given without any reservation.

PRINTED NAME

DATE OF BIRTH

SIGNATURE

DATE

I further authorize the CPCS Innocence Program to enter my name into the CPCS conflict check system so as to assure that they have no conflict of interest in looking into my case.

SIGNATURE

DATE