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July 23, 2015

RAND Corporation

1776 Main Street

Santa Monica, CA 90401-3208

Attn: Michael D. Rich, President and CEO

Subject: The Potential of Blind Collaborative Justice: Testing the Impact of Expert Blinding and Consensus Building on the Validity of Forensic Testimony

Dear Mr. Rich:

The California Association of Crime Laboratory Directors (CACLD) has noted the recent publication of a report by the RAND Corporation, which describes research into methods for improving the reliability of expert testimony in criminal cases¹. While we applaud the goal of this research, we take issue with one element of the report.

The executive summary of the report begins with this sentence:

"Recent estimates indicate that as many as 15 of every 100 incarcerated offenders where DNA was an element in their trial may be wrongfully convicted because of misused DNA evidence matching techniques."

The introduction to the main report starts with a somewhat different statement:

"As many as 15 of every 100 incarcerated offenders may be wrongfully convicted, according to DNA evidence-matching techniques (Roman et al., 2012)."

The first statement implies that up to 15 percent of incarcerated offenders in DNA-related cases may have been falsely convicted *as a result of* faulty DNA evidence interpretation methods. The second implies that DNA evidence interpretation *indicates* a false conviction rate of up to 15 percent. Obviously, these statements are at odds with each other. In the first case, the report suggests that DNA interpretation methods are *causing* an enormous number of false convictions. In the second, the report appears to imply that a similarly enormous number of false convictions could be *prevented* by the application of those same methods.

The reference given in the second sentence is to a study published by the Urban Institute². This study describes the results of DNA testing on old physical evidence from 634 sexual assault and homicide cases that took place in Virginia between 1973 and 1987. Significantly, the study found that "DNA testing eliminated between 8 and 15 percent of convicted offenders in sexual assault cases"³. It appears that this finding is the basis for the assertions made in the RAND Corporation report.

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The referenced study does not show that faulty DNA analysis interpretation methods caused false convictions in these cases. Rather, it suggests that false convictions could have been prevented if DNA analysis had been applied. We also note that the study refers to cases that occurred in 1987 and earlier, before forensic DNA analysis methods were widely available in the U.S. The authors of the RAND Corporation report don't mention these facts. Indeed, the report gives the impression that false conviction as a result of faulty DNA interpretation is a significant and ongoing issue.

The statement in the first sentence of the RAND Corporation report's executive summary is demonstrably unsupported, and is contradicted in a later portion of the report. Given this, and given the statement's potentially misleading and inflammatory nature, we strongly urge the authors of the study to re-examine their work, and retract or amend it as appropriate.

Sincerely,



Jill Spriggs
CACLD President

¹ Wong, et al, *The Potential of Blind Collaborative Justice: Testing the Impact of Expert Blinding and Consensus Building on the Validity of Forensic Testimony*, Santa Monica, CA, RAND Corporation, 2015

² John Roman, Kelly Walsh, Pamela Lachman, and Jennifer Yahner, *Post-Conviction DNA Testing and Wrongful Conviction*, Washington, D.C., Urban Institute, 2012

³ *Ibid.*, abstract