



October 4, 2019

Contact:

Redmond Haskins
The Legal Aid Society
rhaskins@legal-aid.org
(929) 441-2384

*****FOR IMMEDIATE RELEASE*****

***LEGAL AID PRAISES RULING THAT HIGHLIGHTS FLAWED
IN-HOUSE DNA SOFTWARE – FORENSIC STATISTICAL TOOL
– THAT OCME ACTIVELY EMPLOYED FOR SEVERAL YEARS,
CALLS FOR REVIEW OF CASES INVOLVING FST***

(NEW YORK, NY) – The Legal Aid Society praised a New York State Supreme Court [ruling](#) concerning the unreliability of the New York City Office of the Chief Medical Examiner’s (OCME) in-house DNA software – Forensic Statistical Tool (FST), and called for courts, prosecutors, and OCME to review all cases where this program was used. FST was used by the OCME between April of 2011 and January 1, 2017. OCME discontinued FST in 2017, but some older cases where FST was used are still pending in the trial courts.

The ruling, by Judge Mark Dwyer, followed up on his landmark [2015 decision](#) that FST is not acceptable for use in NYC courts. Despite that decision, OCME continued to use FST in countless trials. In total, the program was used in more than 1,300 cases. Judge Dwyer pointed out that many individuals identified by the suspect software now “may wish to challenge FST on appeal.”

Judge Dwyer, who was previously the [Chief of the Appeals Bureau](#) for the New York County District Attorney’s Office, also criticized, as “beyond frivolous,” prosecutors’ repeated attacks on respected scientists who questioned DNA software including FST. Furthermore, Dwyer noted that between 2015 and today, FST has only lost support within the scientific community. Lastly, Dwyer concluded that the only other laboratory to use a similar DNA interpretation method to FST, in Austin, Texas, lost its accreditation “in part for that very reason.”

“This decision should serve as a wake-up call for courts that admit questionable DNA tests like FST without hearing from scientists, instead of prosecutors,” said **Terri Rosenblatt**,

Supervising Attorney of The Legal Aid Society’s DNA Unit. “We call on courts, prosecutors, and the Office of Chief Medical Examiner to review all cases where New Yorkers were affected by the use of FST, a fundamentally flawed tool that has already been linked to a wrongful conviction.”

In addition to the criticisms of FST in this recent decision, in 2017, public disclosures of FST’s source code revealed that OCME kept a [critical flaw](#) in the program secret for years. The program’s results also contributed to at least one high profile [wrongful conviction](#).

###

The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. <https://www.legalaidnyc.org>