

# Falsely convicted seek DNA access

Ex-Peekskill man speaks on proposal at Assembly hearing

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ALBANY — Four men who served a combined 63 years in prison for crimes they did not commit told state legislators yesterday not to expand New York's DNA crime database unless they also provide the accused more access to DNA evidence and resist setting a time limit for post-conviction appeals.

Telling tales of forced confessions, misplaced evidence and questionable law-enforcement conduct, the four now-exonerated suspects said at a state Assembly hearing that DNA should not only be used to catch criminals but to free innocents.

At issue is a proposal advanced by Gov. Eliot Spitzer, a Democrat, to compel anyone convicted of a crime to submit a DNA sample to the state database. Currently the database, in place since 2000, holds samples from people convicted of

any felony and a few misdemeanors. The governor and the Republican-led Senate say the expansion will help police solve more crimes.

They have been at odds with the Democrat-led Assembly, especially over two sticking points. Assembly leaders want to establish an independent commission to review potential wrongful convictions. The governor favors a commission but wants to house it within the state Department of Criminal Justice Services, a setup some legislators oppose as being too close to law enforcement.

Also, Assembly leaders and activists oppose Spitzer's idea of putting a window (one year or three years) on post-conviction appeals based on such things as prosecutorial misconduct or inadequate legal representation. Currently there is no limit.

"What should it matter how long it takes to discover prosecutorial misconduct?" asked Jeffrey Deskovic, who was freed in 2006 after serving half his life in prison for a crime he didn't commit. Deskovic was a 16-year-old Peekskill student who falsely confessed, after seven hours of interrogation, to the rape

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Jeffrey Deskovic, who was freed in 2006 after serving half his life in prison for a Peekskill slaying he didn't commit.

and murder of a classmate. His DNA didn't match that found on the victim, but he was convicted and was not released until last year. Just last month, the real killer was sentenced for the crime.

The Assembly also heard from Alan Newton, a Bronx man who served 21 years in prison on a rape conviction. His request for DNA evidence was turned down in 1994 because it was said to be lost. It was found in 2005. One component Democrats want in a DNA bill is to mandate strict cataloging and retention of evidence.

Twenty-three New York inmates have been exonerated through DNA evidence, 16 since 2002, according to the Innocence Project, a legal clinic that fights to clear the wrongfully convicted. Ten of those cases involved forced confessions.