

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-06-21

In 1985, the People convicted Kevin Cooper of murdering Douglas and Peggy Ryen, their 10-year-old daughter Jessica, and 11-year-old house guest Christopher Hughes. The Ryens' 8-year-old son Josh survived, following critical injuries sustained during the commission of these crimes. Mr. Cooper was convicted of these crimes and sentenced to death. On February 17, 2016, Mr. Cooper submitted an application for executive clemency to former Governor Edmund G. Brown Jr.

In his clemency petition, Mr. Cooper requested further forensic testing of several items of evidence. In December 2018, Governor Brown ordered new DNA testing of some of the items of evidence. In February 2019, I ordered testing of additional items of evidence.

Judge Daniel Pratt (ret.) served as a special master, supervising the testing process conducted by an independent laboratory agreed upon by the San Bernardino County District Attorney's Office and Mr. Cooper's attorneys.

WHEREAS, the laboratory has completed testing on each of the requested items; and

WHEREAS, Mr. Cooper's representatives and the People, acting through the San Bernardino County District Attorney's Office, have submitted individual statements and arguments regarding the results of the testing; and

WHEREAS, the parties have starkly different views regarding how the results should be interpreted and the reliability and integrity of certain evidence; and

WHEREAS, the People contend that the evidence does not support Mr. Cooper's claims of innocence and that overwhelming evidence establishes that Mr. Cooper committed the murders and attempted murder of which he has been convicted and sentenced; and

WHEREAS, the People also contend that a jury, after hearing all of the evidence, found Mr. Cooper guilty and that all State and Federal courts have affirmed his conviction and death sentence after conducting exhaustive reviews of the evidence and of Mr. Cooper's allegations of evidence tampering and other law enforcement and prosecutorial misconduct; and

WHEREAS, Mr. Cooper maintains that he is innocent of the crimes of which he was convicted and contends that the evidence introduced at trial against him was manufactured, mishandled, planted, tampered with, or otherwise tainted by law enforcement; and

WHEREAS, questions about the evidence introduced at trial against Mr. Cooper have come to light, including through post-conviction proceedings, as addressed by the United States Ninth Circuit Court of Appeals; and

WHEREAS, I have reviewed the record in this case, including the recent test results and the parties' views regarding those results; and

WHEREAS, at this time, I continue to take no position regarding Mr. Cooper's guilt or innocence, or whether to grant executive clemency; and

WHEREAS, in connection with his request for executive clemency, Mr. Cooper has requested a further investigation into his claims of actual innocence; and

WHEREAS, especially in cases where the government seeks to impose the ultimate punishment of death, I need to be satisfied that all relevant evidence is carefully and fairly examined; and

WHEREAS, pursuant to Penal Code section 4812, upon my request, the Board of Parole Hearings is required to investigate, report, and make a recommendation to me on applications for reprieves, pardons, and commutations of sentence.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) The law firm of Morrison and Foerster, LLP is appointed to serve as Special Counsel to the Board of Parole Hearings for the purpose of conducting an independent investigation in connection with Mr. Cooper's application for clemency and claims of innocence.
- 2) Among its duties, the firm shall conduct a full review of the trial and appellate records in this case and of the facts underlying the conviction, including facts and evidence that do not appear in the trial and appellate records. The firm's review shall include an evaluation of all available evidence, including the recently conducted DNA tests.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 28th day of May 2021.

A handwritten signature in black ink, appearing to read 'Gavin Newsom', written over a horizontal line.

GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, Ph.D.
Secretary of State