



OFFICE OF THE DISTRICT ATTORNEY

GEORGE H. BRAUCHLER, DISTRICT ATTORNEY

18TH JUDICIAL DISTRICT

SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

APPLICATION FOR CONVICTION REVIEW

The Conviction Review Process:

The District Attorney's Office will review certain types of convictions when the applicant claims in writing to be "actually innocent" of the crime(s) of which they were convicted, and meets other necessary criteria (described further in this application). Once an application is completed, and if the applicant meets the eligibility requirements, the District Attorney's Conviction Review Unit ("CRU") may review the case. Many factors influence the decision to review a case. The District Attorney retains complete discretion to deny an application for conviction review. The CRU does not review or consider requests for resentencing.

The CRU is comprised of several volunteers with significant professional experience in the criminal justice system, including former judicial officer(s), prosecutor(s), and defense attorney(s). The team members are volunteering their time at the request of the District Attorney. The members – and structure - of the team may change without notice and at the discretion of the District Attorney. The conviction review process necessarily implicates the applicant's legal rights. It is important that the applicant fully understand their rights, and the waivers required, before entering into the conviction review process.

Upon completing the review, the CRU will make recommendations to the District Attorney. If the District Attorney determines a substantial basis exists to believe the applicant is actually innocent, such that the evidence exonerates the applicant from any criminal responsibility, a post-conviction motion will be filed in the district court under the caption of the original case in which the conviction entered. Only the court has the authority to modify or vacate the original conviction.

Instructions:

The applicant must complete the Conviction Review Application Form and meet other eligibility requirements before the application will be considered. Please read all sections of these instructions carefully, including the advisement of rights and waivers, and provide as much of the requested information as possible. Failure to provide complete information may result in the delay or denial of review, or denial of the claim by the CRU.

Rights / Waiver / Informed Consent:

If the CRU chooses to review a conviction, it may request more information from the applicant, or other persons or sources who have relevant information, about the conviction. The CRU's review will likely involve communicating with any attorney who participated in the criminal proceedings that led to the challenged conviction. It is important to understand the CRU does not represent the applicant as a lawyer or legal entity in any way during the conviction review process. Neither the District Attorney nor the CRU may provide the applicant legal advice. An applicant is not required to provide any information to the CRU or District Attorney about any criminal matters, past or present. While it is entirely the applicant's decision to cooperate with the CRU, failing to provide certain information during the review process may lead to a delay or denial of review, or a denial of the claim.

By engaging in the conviction review process and completing this application form, the applicant acknowledges that they are voluntarily providing any information of their own free will and no promises or inducements have been conveyed by the CRU, the District Attorney, or any other person or entity.

The applicant also understands that any information provided in this application and in the conviction review process is not confidential and may be shared with law enforcement, among others. Thus, any information provided or learned in the process may be used against the applicant.

Eligibility:

In order to qualify for conviction review by the CRU, the case and applicant must meet the following criteria:

1. The conviction must have occurred within the boundaries of the 18th Judicial District and been prosecuted by the 18th Judicial District -District Attorney's Office;
2. The applicant must have been convicted at trial, not as a result of a guilty plea, plea of no contest, or plea bargain;
3. The applicant must be serving the sentence that was imposed on the challenged conviction (including incarceration in prison or jail, or community supervision by the department of corrections, community corrections or the probation department). Supervision under a deferred judgment and sentence and unsupervised probation do not qualify;
4. The challenged conviction must have been designated a felony under the Colorado Revised Statutes at the time of the sentence;

5. The application for review must be based on credible and verifiable evidence of actual innocence;
6. The applicant agrees to fully cooperate with the Conviction Review Unit, including signing any necessary waivers and disclosing all relevant information requested during the review process.

If the applicant is represented by an attorney, this form must be jointly submitted by the applicant and the attorney (or one attorney, if represented by more than one). If the applicant is represented by an attorney, all communication shall be through the applicant's attorney, unless an written and signed waiver by the lawyer and the applicant is provided.

The credible and verifiable evidence must provide the CRU a substantial basis to believe the applicant is actually innocent, such that the evidence exonerates the applicant from any criminal responsibility for the conviction being reviewed.

Before completing and submitting the Conviction Review Application Form, please be sure that you meet all eligibility requirements, as the CRU will not accept an application that fails to meet any of the eligibility criteria.

Submission of Application:

Once completed, mail this application and any relevant documents or materials (described in the application form) to:

ATTN: Conviction Review Unit
18th Judicial District - Office of the District Attorney
6450 S. Revere Pkwy.
Centennial, CO 80111

Or you may email the completed application and materials to:
CRUclaim@da18.state.co.us

Upon receipt of the application, it will be initially reviewed to determine whether the applicant and conviction meet the eligibility requirements above. If the eligibility criteria have been met, the CRU will initiate a review of the claim of actual innocence to determine whether any corrective legal action should be taken. Because of the uniqueness of each review, including date of offense and conviction, type and availability of evidence and witnesses, etc., the length of time to complete the review cannot be predicted.



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CONVICTION REVIEW APPLICATION FORM:

For purposes of this application form: “**Applicant**” is the person who claims to be actually innocent; “**Conviction**” is the conviction for the crime of which the applicant claims he is actually innocent; “**Actual innocence**” means the applicant did not commit the offense (i.e. *factual* vs. *legal* innocence; meaning, the applicant did not commit the crime, as opposed to an improper resolution of legal issues which led to the applicant’s conviction).

1. Applicant’s full name (ex. *first, middle, last*): _____
2. Applicant’s date of birth (ex. *01/23/1900*): _____
3. Is this request being submitted by the applicant’s current counsel? (yes or no) _____
4. If you answered “yes” to #3, have you obtained the written consent of the person to file this application? (yes or no) _____ (If yes, please attach written consent to this application)
5. If you answered “yes” to #3, please provide the following information:
 - a. Attorney’s name: _____
 - b. Attorney’s registration number: _____
 - c. Attorney’s address and phone number:

6. What type – and how long - of a sentence is the applicant currently serving as a result of the challenged conviction (for example, *5 years prison, 2 years probation, 18 months community corrections*, etc.)?

7. If the applicant is currently incarcerated, please provide the following information:
 - a. Inmate number: _____

b. Physical address and name of detention facility:

8. Conviction information:

a. Court case number and charge(s) of which applicant was convicted:

b. Conviction date: _____

c. Defense lawyer (for conviction) information:

i. Name: _____

ii. Registration # (if known): _____

iii. Current phone number (if known): _____

d. Expected release date (including eligibility and mandatory release dates if known): _____

9. Was the conviction based upon a:

a. Jury verdict _____

b. Court verdict _____

10. Is the conviction currently being challenged or reviewed on appeal or the subject of any type of review or litigation? (yes or no) _____

11. If you answered "yes" to #10, please provide the following information:

a. Name of appellate/reviewing court: (Example: *Colorado Court of Appeals*, *Colorado Supreme Court*, etc.) _____

b. Appellate case number (if different from criminal case number):

c. Other type of review: _____

d. Name, bar registration number, phone number and address of appellate (current) lawyer: _____

12. Describe why the applicant is actually innocent of the crimes of which he or she was convicted (you may attach any documents or materials):

13. What evidence exists to support the applicant's claim of actual innocence? Attach any relevant documentation (declarations, documentary, video, photographic, test results, etc.) and any other information that will assist in determining the applicant's actual innocence. *Note:* do not merely refer the reviewer(s) back to the police reports.

14. Has the applicant contacted any other person, agency or organization regarding this claim of actual innocence? (yes or no) _____ If yes, who?

15. If you answered "yes," to # 14, is there currently any form of ongoing investigation into applicant's innocence? If yes, please provide the name and phone number of the person(s) investigating the claim.

DISCLAIMER: The District Attorney's Office Conviction Review Unit (CRU) reviews cases for the sole purpose of determining claims of actual innocence. The decision to review and further investigate a claim should not be inferred as the District Attorney's acceptance of - or agreement with - the validity of the claim. The volunteer members of the CRU are serving as an independent review panel only. Neither the group nor its individual members are parties to any potential legal proceedings relating to the case or any litigation of any kind. Neither the CRU nor any of its members provides legal advice to any party, individual or entity, and their participation on the CRU does not create an agency or fiduciary duty to any other party, individual, or entity involved in the review. To the extent the District Attorney or an active member of the District Attorney's office takes part in the review process or any determination of actual innocence, such involvement does not prohibit the District Attorney's Office from conducting its normal duties with respect to the case or applicant being reviewed.

WAIVER OF LIABILITY FOR ANY CLAIM OR REQUEST FOR EQUITABLE RELIEF RELATED TO THIS APPLICATION OR ANY ACTION RESULTING FROM THIS APPLICATION: In consideration of the District Attorney and the CRU considering the applicant's claim of actual innocence, the applicant releases and waives all rights to sue the District Attorney, any employees of the District Attorney, the CRU, and any members of the CRU, for any legal claims of any nature, including claims for monetary damages or equitable relief, related in any way to this application, related to any review of a claim of actual innocence, or related to any action taken based on any review of a claim of actual innocence, that may be made by the applicant, the applicant's spouse,

estate, heirs or assigns. This waiver shall be governed by the law of the State of Colorado. **BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THIS WAIVER, AND I AM GIVING UP LEGAL RIGHTS AND REMEDIES ON BEHALF OF MYSELF, MY SPOUSE, ESTATE, HEIRS, AND/OR ASSIGNS.**

Signature of Applicant Date

Signature of Attorney Date
(if applicant represented by an attorney)