

ERRONEOUSLY CONVICTED PERSON CLAIM FORM

VCB-41-00002 (Rev. 05/2022)



For Official Use Only

California Victim Compensation Board
P.O. Box 350
Sacramento, CA 95812-0350

Email: HearingOfficer@victims.ca.gov

Please carefully review and complete this form, attach all supporting documentation, and return to CalVCB at the above address by either regular mail or email. A CalVCB representative will contact you once your submission has been received and considered.

Eligibility for Compensation Recommendation under Penal Code section 4900

If you were erroneously convicted and sentenced to state prison or incarcerated in county jail pursuant to Penal Code section 1170, subdivision (h), for a felony offense under California law, then you may be entitled to a recommendation for compensation under Penal Code section 4900. (Pen. Code, § 4900, subd. (a).) To be eligible for consideration, you must no longer be incarcerated for that conviction, and you must submit a completed claim form, with supporting documentation, within 10 years of your release from custody, dismissal of charges, pardon, or acquittal on retrial. (Pen. Code, § 4901; Cal. Code Regs., tit. 2, §§ 640, 642.)

With limited exceptions, you must present evidence to prove by a preponderance that (1) the charged crime was not committed at all or was not committed by you, and (2) you sustained injury as a result of your erroneous conviction and imprisonment. (Pen. Code, §§ 4900, subd. (a); 4903, subd. (a).) Both of these elements are presumed, and a recommendation for compensation is automatically mandated by law, if a court has found you factually innocent for every offense underlying your incarceration. (Pen. Code, §§ 1485.55, subd. (a), 4902, subd. (a).) Alternatively, if your conviction was vacated during a habeas proceeding or pursuant to Penal Code sections 1473.6 or 1473.7, subdivision (a)(2), and the charges were dismissed or acquitted upon remand, then a recommendation for compensation is mandated for your demonstrated injury, unless the Attorney General timely submits clear and convincing evidence of your guilt. (Pen. Code, §§ 4900, subd. (b), 4902, subd. (d), 4903, subd. (b).)

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Compensation is calculated at a flat rate of \$140 per day of your erroneous imprisonment. (Pen. Code, § 4904.) Compensation is barred for any claimant who pled guilty with the specific intent to protect another from prosecution. (Pen. Code, § 4903, subd. (e).) In the event CalVCB approves your claim and recommends compensation, it is ultimately up to the Legislature to enact a bill to appropriate those funds on your behalf.

Section A. Claimant Information

Claimant's Name: _____ Date of Birth: _____
CDCR Inmate Number: _____ Preferred Pronouns: _____
Email Address: _____ Telephone Number: _____
Mailing Address: _____ City: _____ State: _____ ZIP: _____

It is your ongoing duty to provide a current address to CalVCB. (Cal. Code Regs., tit. 2, § 616.2.)

Section B. Attorney/Representative Information (if applicable)

Name of Attorney/Representative: _____
Email Address: _____ Telephone Number: _____
Mailing Address: _____ City: _____ State: _____ ZIP: _____
Signature: _____ Date: _____

An attorney or representative is not required in this administrative proceeding. If you are represented, your representative has an ongoing duty to provide a current address to CalVCB. (Cal. Code Regs., tit. 2, § 616.2.)

Section C. Erroneous Conviction(s) Information

County and Criminal Court Case Number for Erroneous Felony Conviction(s): _____

Penal Code (or Vehicle Code or Health and Safety Code) section for Erroneous Felony Conviction(s): _____

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State prison(s) in which Claimant's sentence was served: _____

Date of Arrest: _____ Date of Conviction: _____

Sentence Imposed: _____ Days Actually Served: _____

Date of Release from Imprisonment (*you are not eligible to submit a claim if you are still incarcerated for the challenged conviction(s)*): _____

Date of Discharge from Parole/Supervision: _____

Date of Dismissal or Acquittal of Charges on Retrial: _____

Date of Pardon Granted: _____

Amount of Compensation Requested (*calculated at \$140 per day of your erroneous incarceration*):
\$ _____

You must attach supporting documentation to confirm your conviction, imprisonment, and release from custody for the challenged offense. (Cal. Code Regs., tit. 2, § 640, subd. (a)(2).)

Section D. Factual Innocence Determination

1. Has a court issued a finding of factual innocence for your challenged conviction(s) in any proceeding to grant habeas relief or vacate the judgment under Penal Code section 1473.6?
____ No. ____ Yes. If yes, you must attach a copy of the court's order to this claim form.
2. Did the court finding of factual innocence apply to each and every conviction underlying your entire sentence?
____ No. ____ Yes. If yes, you must attach a copy of the Abstract of Judgment or other documentation to confirm the calculation for your sentence.

Upon satisfactory proof that the answer to both of these questions is yes, then you may be entitled to an automatic recommendation for compensation within 30 days and without an administrative hearing.

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Section E. Post-Conviction Proceedings (Excluding Direct Appeal)

1. Has a court vacated your challenged conviction(s) by granting habeas relief?
 No. Yes. If yes, you must attach a copy of the court's order to this claim form.
2. Has a court vacated your challenged conviction(s) pursuant to Penal Code section 1473.6 or 1473.7, subdivision (a)(2)?
 No. Yes. If yes, you must attach a copy of the court's order to this claim form.
3. If you answered yes to either #1 or #2 above, were the charges subsequently dismissed on remand or were you acquitted on retrial?
 No. Yes. If yes, you must attach a copy of the court's order to this claim form.

Upon satisfactory proof that the answer is yes to questions #1 and #3 or #2 and #3, then you may be entitled to a recommendation for compensation for your demonstrated injury, unless the Attorney General timely submits clear and convincing evidence of your guilt.

Section F. Statement of Factual Innocence

Absent an exception, you bear the burden to prove your factual innocence by a preponderance of evidence. (Pen. Code, § 4900, subd. (a).) To present a claim to the Board, you must provide a statement of facts to show that the crime with which you were charged was either not committed at all, or, if committed, was not committed by you. (*Please attach additional paper if needed.*)

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Section G. Statement of Injury

Absent an exception, you bear the burden to prove, by a preponderance, that you sustained injury as a result of your erroneous conviction. Injury is shown if you would have been free from custody but-for the erroneous conviction. To demonstrate injury, list every conviction and resulting sentence that was imposed at any time during your confinement for the erroneous conviction.

(Please attach additional paper if necessary.)

Section H. Disqualification for Certain Guilty Pleas

1. Did you enter a guilty plea to the conviction(s) for which you are seeking compensation under Penal Code section 4900?

___ No. ___ Yes.

2. If the answer is yes, did you do so with the specific intent to protect another from prosecution?

___ No. ___ Yes.

3. Please explain the reasons for your decision to enter a guilty plea.

Section I. Declaration Statement

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Printed Name: _____

Signature: _____ Date: _____

Privacy Notice on Collection

1. CalVCB collects this information based on California Government Code sections 13952 et seq. and 13954, Penal Code section 4900 et seq., and California Code of Regulations, title 2, section 640 et seq.
2. All information collected from this site is subject to, but not limited to, the Information Practices Act. See victims.ca.gov/legal/public-records-requests/.
3. This information is collected for the purpose of determining eligibility for compensation.
4. CalVCB may disclose your personal information to another requester, only if required to do so by law or in good faith that such action is necessary to:
 - a. Conform to the edicts of the law or comply with legal process served on CalVCB or the site;
 - b. Protect and defend the rights or property of CalVCB; and,
 - c. Act under exigent circumstances to protect the personal safety of users of CalVCB, or the public.
5. Individuals are to provide only the information requested.
6. The information provided is voluntary.
7. The consequences of not providing the requested information could delay filing the claim or the claim not being filed.
8. The information collected is used by the Legal staff to process your claim.
9. Any questions regarding the information collected, please write to the following address: P.O. Box 350, Sacramento, CA 95812-0350, email CustodianOfRecords@Victims.ca.gov, call (888) 833-3593, or contact the CalVCB Privacy Coordinator at InfoSecurityAndPrivacy@Victims.ca.gov.