



CONVICTION INTEGRITY REVIEW APPLICATION

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I. OVERVIEW

The mandate of the Conviction Integrity Review Protocol is to ensure the reliability, accuracy, and credibility of trial convictions by carefully considering claims of actual innocence in Chester County that meet established criteria.

Conviction Integrity Review applies only to individuals convicted of felonies and/or murder with legitimate post-conviction claims of **actual innocence**. A petitioner may only submit **one application** request for review of a conviction based on a claim of actual innocence. Second and subsequent applications will be summarily dismissed and denied. The petitioner must have been convicted at trial.

Note: If the petitioner pleaded guilty, he/she is ineligible for review, and the application will be automatically denied.

II. ELIGIBILITY

The following types of submissions will be accepted:

1. Only claims of actual innocence will be considered.

“Actual innocence” means factual innocence.

To establish actual innocence, the petitioner must demonstrate that, “in light of all the evidence, it is more likely than not that no reasonable juror would have convicted him.”

2. All requests must be submitted electronically or in writing by the petitioner, or their attorney, using the standardized Conviction Integrity Review Application form. For

the District Attorney's Office to carry out a preliminary review of a conviction, the following prerequisites **must** be met:

- a. The conviction must have occurred in the Chester County Court of Common Pleas.
 - b. It must have been a felony or murder conviction. Misdemeanor and summary convictions will not be considered.
 - c. The conviction resulted from a trial (either a jury or non-jury).
No guilty pleas will be considered.
 - d. The petitioner must be a living person.
 - e. There must be a claim of actual innocence (i.e., not a legal issue).
 - f. New evidence must be material and credible.
 - g. The new evidence viewed based on the totality of circumstances now known must be of a "clear and convincing" nature creating a reasonable likelihood of innocence as defined by the ABA Rules of Professional Conduct. R. 3.8.¹
 - h. The petitioner bears the burden of providing the credible evidence.
 - i. Before applying, the petitioner must have exhausted all state and federal post-conviction remedies.
 - j. The actual innocence claim must have been raised in a prior post-conviction filing.
 - k. The claim must not be frivolous.
3. The District Attorney's Office will not review non-innocence-related claims such as those concerning procedural errors at trial, trial court rulings, or ineffective assistance of counsel.
 4. Priority will be given to those cases in which the convicted defendant is currently incarcerated solely for the crime he/she claims actual innocence.
 5. The Conviction Integrity Review Application form may be submitted by a petitioner directly or through counsel. If a petitioner engages counsel, all communication with the District Attorney's Office must be through the attorney.
 6. A Conviction Integrity Review Application will not toll any post-conviction time limits.

¹ ABA MODEL RULES OF PROF'L CONDUCT 3.8 (g) (2008) – "When a prosecutor knows of new, credible and material evidence creating a reasonable likelihood the defendant did not commit an offense of which the defendant has been convicted..."

III. INITIAL REVIEW FOR SUBMISSIONS

1. After receiving a submission form, an Assistant District Attorney will carry out a preliminary review. If the actual innocence prerequisites are not met, the petitioner or his/her legal representative will be notified that the claim is declined and that no further action will be taken.
2. If the actual innocence prerequisites are met, the application will be transferred to a supervising attorney to review the claim as soon as possible. The assigned attorney will determine whether there is a plausible, testable claim of actual innocence that is capable of review and investigation and which, if substantiated, would result in a finding of a wrongful conviction justifying the vacating of a felony/murder conviction.
3. Any cases that could be a conflict for any reason will be referred to the PA Office of the Attorney General.
4. When a case qualifies for review, the assignments will rotate through a team selected from the following supervisory personnel: First Assistant, Chief of Staff, Chief of Trials, and Deputy District Attorneys. In addition, the Chief County Detective will assign a supervisory detective.
5. If the result of that review is that the request lacks a sufficient basis to consider the merits further, an assigned attorney from the District Attorney's Office will notify the petitioner or legal representative that no further action will be taken. The determination of whether to further review a claim is at the sole discretion of the District Attorney's Office.
6. The District Attorney's Office will not review claims where a petitioner recants his/her trial testimony, grand jury testimony, or any other testimony given under oath. Nor will the office review any claims where a petitioner offers a new theory of innocence.
7. It is the petitioner's responsibility to ensure that he/she complies with all the Conviction Integrity Review Protocol requirements before submitting an application for review.
8. Failure to meet any of the above criteria will result in a summary dismissal of the petition.

IV. IN-DEPTH REVIEW AND INVESTIGATION

1. Each case will be reviewed on an individual basis. Some claims of innocence may be resolved by reviewing the petitioner's submission, the District Attorney's Office files, and/or previous filings. Others may require a more thorough examination, including:

- a. Information from the petitioner;
 - b. Interviews of those involved with the case;
 - c. Interviews of witnesses;
 - d. Review of physical evidence;
 - e. Consideration of new scientific/technological advances;
 - f. Cooperation and coordination with petitioner's counsel;
 - g. Any other steps, regardless of admissibility in a court proceeding, that will assist in a full and fair review.
2. Each case file shall be maintained according to the following procedure:
 - a. Administrative Assistant to District Attorney shall maintain a tracking system.
 - b. Each application shall be tracked with the outcome for the application and the reasons explaining that outcome.
 3. Once the in-depth review is completed, the supervising attorney will determine whether a valid claim of actual innocence is present and draft a report and recommendation. The report and recommendation shall be sent to the District Attorney.
 4. If, at any point, during the review of an actual innocence claim, the case does not meet the criteria set out in the initial review, the petitioner or his/her legal representative will be notified that the claim has been rejected and that no further action will be taken.

V. FINAL DECISION

1. The final decision as to whether the petitioner's submission for relief should be granted or denied is solely at the discretion of the District Attorney of Chester County. The final decision shall be communicated in writing to the petitioner and/or legal representative by a member of the Chester County District Attorney's Office. There is no timeframe by which the District Attorney's Office must decide on the claim.
2. An assigned attorney from the District Attorney's Office will notify the victim(s) or survivor(s) in the case at any point in the process as deemed necessary. Victim advocate services will be offered. If actual innocence is determined, an attorney from the District Attorney's Office will notify the victim(s) or survivor(s) in the case.
3. Because these reviews are discretionary and not required under the law, the petitioner understands that by submitting an application, he/she is bound by the District Attorney's decision. There is no court review of that decision.