



MINNESOTA CONVICTION REVIEW UNIT CHARTER

As one of Attorney General Keith Ellison's criminal justice reform initiatives,¹ the Office of the Minnesota Attorney General, in conjunction with a federal grant received by the Great North Innocence Project, has created and will implement and direct a statewide Conviction Review Unit (CRU) to conduct extrajudicial review of juvenile adjudications, criminal convictions, and sentences² in cases with plausible allegations of actual innocence or manifest injustice.

The CRU shall conduct strategically collaborative, good-faith case reviews to ensure the integrity of challenged convictions, remedy wrongful convictions, and take any remedial measures necessary to correct injustices uncovered, within the bounds of the law. In cases where the CRU concludes there was a wrongful conviction—where the person convicted did not commit the crime—the CRU will seek to identify the true perpetrator of the underlying crime(s). The CRU will also study and collect data on the causes of wrongful convictions in Minnesota, in service of informing statewide policies and procedures designed to prevent such injustices going forward and strengthen community confidence in the criminal legal system overall. The CRU is committed to seeking the truth, communicating with and respecting crime victims, and ensuring transparency in the review process and shall openly and regularly report its case review numbers to the public. To fulfill its mission, the CRU will operate independently from trial, appellate, and post-conviction litigation units in the office, and will, where possible, conduct joint or cooperative investigations with applicants' counsel, and, where joint investigation is not feasible, will approach its review and investigation in a non-adversarial manner, always with the goal of ensuring that justice prevails in each and every case.

GUIDING PRINCIPLES

“The primary duty of the prosecutor is to seek justice within the bounds of the law, not merely to convict. The prosecutor serves the public interest and should act with integrity and balanced judgment to increase public safety both by pursuing appropriate criminal charges of appropriate severity, and by exercising discretion to not pursue criminal charges in appropriate circumstances. The prosecutor should seek to protect the innocent and convict the guilty, consider the interests of victims and witnesses, and respect the constitutional and legal rights of all persons, including suspects and defendants.” American Bar Association, Criminal Justice Standards for the Prosecution Function, Standard 3-1.2(b).

¹ This Charter was approved by the Minnesota CRU Advisory Board on June 23, 2021. It is modelled on the Special Directive to the Los Angeles District Attorney's Office directed by George Gascon.

² As used in this Charter, 'criminal conviction' shall be interpreted broadly enough to include juvenile adjudications, *Alford* pleas, *Norgaard* pleas, and guilty pleas.

“When a prosecutor knows of new, credible and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted, the prosecutor shall: (1) promptly disclose that evidence to an appropriate court or authority, and (2) if the conviction was obtained in the prosecutor’s jurisdiction, (i) promptly disclose that evidence to the defendant unless a court authorizes delay, and (ii) undertake further investigation, or make reasonable efforts to cause an investigation, to determine whether the defendant was convicted of an offense that the defendant did not commit. When a prosecutor knows of clear and convincing evidence establishing that a defendant in the prosecutor’s jurisdiction was convicted of an offense that the defendant did not commit, the prosecutor shall seek to remedy the conviction.” American Bar Association, Model Rules of Professional Conduct, Standard 3.8(g)-(h).

POLICIES GOVERNING CRU CASE REVIEW

In view of the growing body of evidence demonstrating that wrongful convictions occur with greater frequency than is acceptable in our criminal legal system, and based on a review of best practices employed in CRUs in other jurisdictions, the policies governing this office’s CRU shall be as follows:

The CRU shall be an independent unit that reports directly to the Attorney General or their designee. It shall be staffed with one or more attorneys and support staff who are committed to its mission. The CRU Advisory Board shall be composed of members with diverse backgrounds and experiences.

The CRU has a broad mandate to review a wide range of issues relating to wrongful convictions but shall prioritize claims of actual innocence brought by individuals who are currently in custody. The CRU shall not reject any case because a conviction is based on any type of guilty plea, or where the applicant has completed his or her sentence. The CRU shall review cases from applicants who have exhausted direct appeals available under state law, or where the deadline for any such appeals has expired. However, in special circumstances that strongly suggest that an injustice has occurred or is about to occur, the CRU may agree to review the case before the direct appeal is final. In that instance, the CRU will seek the cooperation of the County Attorney for cases originating in their county. The CRU shall be authorized to fast-track cases submitted by applicants who are represented by counsel, including innocence organizations, where those cases have undergone substantial, reliable investigation and where new evidence supporting the wrongful conviction claim is presented or that evidence can be developed by the CRU.

The preferred mechanism for facilitating CRU review of cases originally prosecuted by a County Attorney is for such County Attorney to request that the Attorney General appear in the case pursuant to Minn. Stat. § 8.01. The CRU shall proactively reach out to the prosecuting County Attorney in each such case that the CRU deems proper. Provided, however, that with respect to any case originally prosecuted by a County Attorney, regardless of whether the Attorney General appears in the case under Minn. Stat. § 8.01, the County Attorney shall not take part in (1) the CRU's decision as to whether to accept the case for review, (2) the CRU's investigation of the case (other than to provide requested assistance or information), or (3) the CRU's determination as to whether to recommend that relief be granted.

While a case is under review at the CRU, the CRU agrees that all time limits and time bars for judicial relief should be tolled during the time the CRU has the case. In cases where the Attorney General's Office handled the original prosecution or has stepped in for the County Attorney following the County Attorney's post-conviction request, the Attorney General's Office will agree to such tolling. In all other cases, the CRU will encourage the local prosecuting authority to do the same. If the CRU is unable to get confirmation from the local prosecuting authority that time limits and bars will be tolled, the CRU will advise the applicant of such and the applicant may remove his case from the CRU's consideration. Further, if the case ultimately proceeds to court in an adversarial process, the CRU and prosecuting authorities will provide this tolling agreement to the court on behalf of the petitioner in the form of a joint stipulation that all applicable time limits were tolled while the CRU reviewed the case.

CASE REVIEW CRITERIA

The CRU may accept for review cases in which:

- (1) the applicant was prosecuted either by the Office of the Attorney General or by any County Attorney's Office in the State of Minnesota;
- (2) there is a claim of actual innocence, wrongful conviction, or unjust sentence; and
- (3) the CRU identifies one or more avenues of investigation that have the potential to substantiate the applicant's claim(s) of actual innocence, wrongful conviction, or unjust sentence.

The CRU shall be authorized to undertake a review and investigation in cases that do not meet the intake criteria, if doing so is in the interests of justice. The interests of justice may be met where the applicant alleges, and the CRU concludes, that further investigation is warranted to determine whether:

1. There is a reasonable probability that the applicant is actually innocent;
2. Some or all of the evidence relied upon to obtain the conviction is no longer deemed credible;
3. There is evidence the prosecution or conviction was tainted by improper racial or ethnic bias, which may include testimony related to the applicant's purported gang membership or testimony related to the conduct of gangs, whether or not a court previously agreed with the applicant's assertion of bias;
4. There is evidence that the prosecution or conviction was tainted by improper bias regarding the applicant's gender, gender identity, sexual orientation, disability, cultural or religious identity;

5. The prosecution failed to disclose material evidence in the possession of any law enforcement agency that was favorable to the defense, whether exculpatory, impeaching, or mitigating;³
6. It is apparent from the evidence provided that counsel performed deficiently, and there is a reasonable probability that the deficient performance contributed to a wrongful conviction;
7. Misconduct infected the investigation or proceedings;
8. The fact-finding process was so corrupted as to deny the applicant a fair adjudication of his or her guilt or innocence at trial;
9. A manifest injustice rendered the trial or sentence fundamentally unfair; or
10. Had the prosecuting agency known at the time of trial what it now knows about the evidence, the office would not have chosen to prosecute the case, or would have charged the case differently.
11. The above list is intended to be illustrative; it is not exhaustive.

The CRU shall pay special attention to cases where the applicant claims the conviction was obtained based on any of the following high-risk factors, or common causes of wrongful conviction, which shall not be rejected without meaningful review and investigation:

1. The applicant was convicted based, in whole or in part, on eyewitness identification evidence or testimony, particularly where it was a stranger identification or cross-racial identification, or both;
2. The applicant was convicted based, in whole or in part, on the applicant's confession and there are allegations that this confession was false or coerced;⁴
3. The applicant was convicted based, in whole or in part, on testimony that has since been recanted as false or coerced;
4. The applicant's conviction is alleged to have been borne from official misconduct, including witness tampering, misconduct in interrogations,

³ See, Minnesota Rule of Professional Conduct Rule 3.8, Special Responsibilities of a Prosecutor.

⁴ The CRU shall consult the 2010 American Psychological Association white paper on police interrogation and confessions, and any emerging literature or research regarding false confession and recanting witnesses, to inform its review of convictions supported by statements obtained during custodial interrogations that have since been recanted or disavowed by the person who allegedly made the statement.
[https://web.williams.edu/Psychology/Faculty/Kassin/files/White%20Paper%20-%20LHB%20\(2010\).pdf](https://web.williams.edu/Psychology/Faculty/Kassin/files/White%20Paper%20-%20LHB%20(2010).pdf).

fabricated evidence and confessions, the concealment of exculpatory evidence, and misconduct before or at trial;⁵

5. Law enforcement, prosecution, or judicial personnel involved in the investigation, arrest, prosecution, or trial of the applicant were subsequently discharged or relieved of their duties for misconduct;
6. The applicant was convicted based on forensic evidence or expert testimony that was grounded in largely or wholly discredited or unreliable methodologies, including but not limited to bloodstain pattern analysis, comparative bullet lead analysis, forensic odontology (bitemarks), hair microscopy for the purpose of determining whether known or unknown hairs share a common source, Shaken Baby Syndrome/Abusive Head Trauma (SBS/AHT), and arson science. The CRU shall review the forensic methods used to analyze the evidence and ensure that forensic evidence used to obtain a conviction is foundationally valid and valid as it was applied in the case;⁶
7. The applicant was convicted based on forensic evidence that Minnesota prosecuting authorities have generally accepted as reliable, but the particular conclusions or opinions presented to the jury in support of the prosecution's case exceeded the bounds of what is now recognized to be valid science – for example, through testimony purporting to “identify” an applicant as the

⁵ The CRU shall consult the National Registry of Exonerations report *Government Misconduct and Convicting the Innocent: The Role of Prosecutors, Police and Other Law Enforcement* (2020), and any emerging literature or research regarding official misconduct, to inform its review of convictions alleged to have resulted in whole or in part from official misconduct.

⁶ The use of unreliable and misleading forensic evidence, which we know is a common cause of wrongful convictions, imperils the integrity of the criminal legal system. The CRU shall critically and continually examine emerging scientific literature, which may also call into question older forensic methods, and train staff about these changes, so that case review criteria can be updated as needed. The CRU shall ensure that forensic evidence supporting a conviction complies with the findings, recommendations, and best practices set forth in specific reviews of the relevant sciences, including but not limited to the following: American Association for the Advancement of Science (AAAS) reports on Fire Investigation (2017) and Latent Fingerprint Examinations (2017); American Statistical Association (ASA) Position on Statistical Statements for Forensic Evidence (2019); National Academy of Sciences (NAS) report Strengthening Forensic Science in the United States: A Path Forward (2009); National Institute of Standards and Technology (NIST) report on Latent Print Examination and Human Factors (2012), Working Group on Human Factors in Handwriting Examination (2020), and Scientific Foundation Studies on DNA mixture interpretation, bitemark analysis, firearms examination, and digital evidence (forthcoming); and President's Council of Advisors on Science and Technology (PCAST) report Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods (2016); Swedish Agency for Health Technology Assessment and Assessment of Social Services, Traumatic Shaking: The Role of the Triad in Medical Investigations of Suspected Traumatic Injuries, Report 255E/2016.

unique source, or through expert testimony implying or stating a statistical basis for the likelihood of a particular conclusion that is not verifiable or otherwise valid;

8. The conviction was based, in whole or in part, on jailhouse informant information or testimony or on testimony by an informant that has been used by law enforcement or any prosecuting authority in this state on more than one occasion;
9. The conviction was based in whole or in part on the testimony of witnesses who received benefits from the prosecuting authority or law enforcement in exchange for, or close in time to, their testimony against the applicant;
10. Evidence based on analysis by crime labs that were not accredited when the analysis was conducted, and/or where such crime labs or any of their personnel have been implicated in scandals related to their handling and testing of evidence;
11. Other evidence supporting the conviction was corroborated by one or more of the above types of unreliable evidence;
12. The applicant was convicted after retrial, especially if a retrial followed a hung jury or the applicant faced more than one retrial;
13. Prosecuting attorneys or defense counsel were disbarred or otherwise disciplined, or defense counsel presented no evidence to counter the prosecution's case at trial, or failed to present a corroborated alibi at trial, or defense counsel failed to retain an expert or to present expert testimony where the prosecution's case relied heavily on expert scientific or medical evidence, or where it is otherwise apparent that counsel performed deficiently;
14. Defense counsel was disbarred or otherwise disciplined, or presented no evidence to counter the prosecution's case at trial, or failed to present a corroborated alibi at trial, or where it is apparent that counsel performed deficiently.

SPECIAL CONCERNS IN EVALUATING FORENSIC EVIDENCE

In cases involving forensic evidence, the CRU shall request that state, county, or city public laboratories conduct forensic testing or permit the applicant's counsel to have forensic testing conducted at an independent lab, when doing so could be probative, in that it may tend to identify the perpetrator of the crime or may exculpate the applicant seeking review of their conviction. Where practicable, the CRU shall make such requests jointly with the applicants' counsel. The CRU shall request that forensic results be expressed in reports and testimony using clear and comprehensible language, to inform the CRU's own decision making and that of other legal actors.

Where such testing is conducted, any forensic analysts retained by the CRU may speak freely and independently with the applicant's counsel and shall make the analysts' underlying data and case materials available to the defense.

The CRU shall not raise procedural challenges or defenses to oppose, nor shall it oppose, requests for forensic testing, including but not limited to DNA testing, fingerprint analysis, firearms comparison, GSR, toxicology, where the testing may lead to evidence relevant to the applicant's claim of actual innocence or wrongful conviction, including but not limited to testing that is capable of identifying the perpetrator of a crime. The CRU shall assist applicants in ascertaining the status of physical evidence by facilitating contacts between individuals seeking testing and/or their attorneys and the crime lab and/or law enforcement agency and/or court staff and/or county attorney office personnel and/or any other place where evidence might exist in order to search evidence and property rooms to locate the evidence in question.

The CRU shall carefully scrutinize cases in which experts or others opined or testified by using terms like "reasonable degree of scientific or medical certainty," which have no accepted scientific or medical meaning yet convey an unsupported measure of reliability or conclusiveness to the factfinder. The CRU shall request that all information concerning the limitations of forensic techniques should be disclosed alongside the results of any analyses. All forensic methods have limitations, and none is error free. Where error rates for a method are not known or have not been adequately measured, reports shall state that fact. The CRU shall carefully scrutinize any conviction based in whole or in part upon testimony that states or implies a "zero error rate" or which purports to provide an error rate that has not been independently validated. The CRU shall similarly make those limitations clear in communications with the applicant and/or their counsel and the court. The CRU shall also request that all methods of forensic analyses be documented in the first instance to permit the CRU's review and disclosure of all steps followed and the methodology used to arrive at the conclusions reached.

The CRU shall ensure that the applicant and/or their counsel receive not just certificates or reports of forensic analyses, but also complete documentation of the methods used, including all lab notes, and the results reached. The CRU shall disclose to the applicant or their counsel, if the applicant is represented, all inconclusive and exculpatory forensic results, in addition to any information about corrective actions taken in a laboratory or proficiency testing of individual analysts. The CRU shall also make routine requests to preserve forensic evidence, especially where the applicant or their counsel seek preservation for potential future testing.

The CRU shall facilitate a CODIS, MAFIN, or NBIN search of evidence that may help demonstrate an individual was wrongly convicted or identify a perpetrator.

PRO SE APPLICANTS

When a *pro se* applicant submits an application, the CRU shall consider, on a case-by-case basis, whether appointment of independent legal representation would promote justice and facilitate review of the case. When the case involves any of the high-risk factors listed above, the CRU may assist the applicant in seeking legal representation and, if requested, refer the individual to an appropriate innocence organization, law school clinic, *pro bono* counsel, public defender office, or other sources of legal representation.

Where an applicant is represented by counsel, the CRU shall use joint discovery or limited disclosure agreements, in appropriate cases, to share investigative and work product information. The CRU will seek to conduct investigations jointly and collaboratively with counsel, sharing exculpatory or improperly withheld information as quickly as practicable. In such cases, a cooperative agreement, in writing and signed by both parties, will provide, among other things, that any attorney-client or work-product privileged information an applicant shares with the CRU shall not be shared with other units in the office or other prosecuting authorities and shall not be used by other units or prosecuting authorities in litigation pertaining to applicant's case. Nor may privileged information provided to the CRU be used to the detriment of the applicant at trial, appeal, postconviction hearings, parole hearings, or pardon, commutation, or clemency proceedings. In any event, a waiver of attorney-client privilege or confidentiality shall not be a necessary prerequisite to the CRU's acceptance of a case for review.

COMMUNICATIONS WITH APPLICANT'S COUNSEL

This Office respects the sanctity of the attorney-client privilege between an applicant and defense counsel. An applicant who alleges ineffective assistance of counsel may have, unwittingly, impliedly waived some portion of the attorney-client privilege as to communications with their trial or appellate counsel. This waiver is not absolute, however, and is extremely limited.

The CRU shall not contact defense counsel or seek to obtain counsel's file without obtaining the applicant's informed consent in writing. The CRU shall not seek disclosure of anything beyond that which is strictly necessary and legally allowable under Minnesota and Federal law, including information that exceeds the limited scope of the ineffective assistance of counsel claim.

The CRU shall not encourage any attorney to violate their ethical duties of confidentiality and loyalty to former clients, as articulated in the Minnesota Rules of Professional Conduct; rather, CRU attorneys or investigators speaking to defense counsel must remind defense counsel of the attorney-client privilege prior to the start of a substantive interview.

INVESTIGATIONS IN CLAIMS OF WRONGFUL CONVICTION

Investigations often require looking into convictions that are decades old, where witnesses' memories have faded, or that involve reluctant or recanting witnesses, and therefore often require specialized knowledge and training on issues such as memory science, eyewitness identifications, and police practices used at the time that are no longer considered best practices. CRU staff shall consult with outside experts, as needed, to obtain relevant materials concerning best practices regarding conducting CRU investigations. Where practicable, all CRU investigations shall be undertaken jointly and cooperatively with defense counsel, joint participation in witness interviews, the sharing of documents and evidence, and cooperation as to strategic decisions concerning the investigation.

These investigations shall not be undertaken as a means of "protecting" a conviction, nor shall they be adversarial in nature. Thus, for example, investigators shall not engage in tactics designed to dissuade a recanting witness and shall not threaten to charge that witness with perjury.

Rather, the paramount goal of a CRU investigation shall be to determine the reliability and truthfulness of the recantation. Using a high-pressure, coercive, or intimidating approach in these investigations wastes time and resources and sends a mixed message to office staff about the CRU's mission and undermines the CRU's credibility with the public.

CRU staff shall also make all reasonable efforts to avoid unintentional witness intimidation. These efforts shall include, but are not limited to, conducting interviews in non-threatening or neutral locations (rather than in this office or another law enforcement entity's office or station).

CRU investigators shall understand what confirmation bias is—also referred to as tunnel vision—and how to avoid it. Studies have shown that confirmation bias is pervasive in the reinvestigations in wrongful conviction cases. It can occur, for example, when original police reports are viewed deferentially or treated as unassailable accounts of the truth of what transpired in the case, when research shows that police reports are often incomplete and contain inaccuracies, sometimes due to the fast-pace at which criminal investigations unfold, following serious felony offenses. CRU staff shall test and probe information in police reports, witness accounts, and other new evidence presented by an applicant, in a manner designed to uncover the truth.

INDEPENDENCE OF THE CRU

To the extent possible the CRU shall not disclose or discuss ongoing investigations with personnel from other units within the Attorney General's Office, other than the Attorney General or their designee. Nor will the CRU share information from ongoing investigations with other governmental entities, except where specifically required to do so by law, or if approved by the Attorney General. In addition, to ensure a full and fair review of each case, investigations and case reviews shall be conducted independently by CRU deputies and investigators, without consultation or input from the original prosecutors, except as needed to obtain historical information about the case.

The prosecutors who handled the original prosecution shall be afforded a reasonable opportunity to respond to any challenges that have been made to the prior handling of the case but shall not take part in the office's determination as to whether to accept a case for review or whether to recommend that relief from a conviction be granted. This unique investigative and litigation perspective underscores the need for CRU independence from other areas of the office and should be read to encourage collaboration with an applicant seeking review of a conviction wherever possible.

ACCESS TO DISCOVERY

If the CRU accepts a case for review, the CRU shall work to obtain all discovery the applicant is entitled to under Minnesota law, including but not limited to all *Brady* materials in the constructive possession of the prosecuting authority's office. The CRU shall also allow applicants and their attorneys to have access to all non-privileged and non-sensitive information in the case files under review, including information in police reports and lab reports concerning the testing of forensic evidence.

Recognizing that certain categories of otherwise privileged information and work product prepared by prosecutors may contain exculpatory or impeachment information relevant to an applicant's claims, and the benefit to the truth-seeking process of having both parties review this material, the CRU shall, in cases prosecuted by the Office of the Attorney General, err on the side of disclosing the complete trial file to the applicant's counsel for independent review, subject only to reasonable and necessary non-disclosure agreements. Any redactions shall be limited to those deemed strictly necessary to protect victim or witness privacy. The CRU will work with the prosecuting authorities' offices to determine whether further redaction is appropriate and in the interest of justice.

As referenced above, the CRU shall not condition its review of a case or its own disclosures on any reciprocal commitment on the part of the applicant to waive any aspect of the attorney-client privilege. Where otherwise privileged information may be necessary for the CRU to fully investigate and consider an applicant's claims for relief – for example, to speak with the applicant's trial counsel or review portions of the trial file to determine if certain *Brady*⁷ information was or was not timely disclosed – the CRU shall limit its waiver requests to only those necessary to investigate the claim or issue. Similarly, where the CRU seeks to interview the applicant or the applicant's prior counsel, the CRU shall afford the applicant's current counsel the opportunity to be present (or waive counsel's presence) at the interview.

In cases where the CRU determines that a review of the applicant's prior attorneys' work product is necessary to further investigate and consider the applicant's claims, the CRU will obtain, in writing, informed consent from the applicant in order to facilitate access to that information. The CRU will also encourage the applicant's prior counsel to discuss the contents of their file with their former client and how the information contained therein might affect the CRU applicant's claims. The former attorneys should also be encouraged to obtain their own informed consent waiver from their former client.

The CRU shall proactively seek to obtain complete files from the prosecuting authority's offices and law enforcement agencies pertaining to the case as well as forensic evidence and files maintained by laboratories, coroner's or medical examiner's offices, and social services agencies. In the event the CRU discovers that the case file(s) have been lost in whole or in part, the CRU shall immediately inform the person seeking review of their conviction, or their counsel, that the file(s) has been lost. The CRU shall work to reconstruct the file by obtaining records from:

- The Office of Attorney General's internal files;
- The prosecuting authority;
- Any other law enforcement agency or emergency services provider involved in the case;
- Crime labs;
- The medical examiner's office, in homicide cases;
- Social service agencies;
- The treating hospital or other medical services provider;

⁷ See *Brady v. Maryland*, 373 U.S. 83 (1963) (due process requires the prosecution to turn over any materials favorable to the defense).

- The trial court;
- The courthouse exhibit room;
- The appellate courts; and
- Any other source reasonably likely to have relevant materials, records, and/or evidence, such as medical records, where appropriate releases are provided, 911 dispatch call recordings, etc.

CASE RESOLUTION & REMEDIAL OPTIONS

Once the CRU accepts a case for review and completes a full investigation, the CRU shall make a recommendation to the Attorney General. The CRU's recommendation will consider all information uncovered in the investigation, whether or not admissible, including: 1) misconduct or error of any kind; 2) deficiencies in representation; 3) pre-trial, trial, or appellate error; 4) new understandings about the quality and reliability of the evidence; 5) new practices and standards; and 6) new understandings of potentially relevant evidence, e.g., juvenile brain research; 7) any other reliable evidence that was not presented before the conviction occurred. After considering the factors above, if the CRU can no longer be confident the applicant would be found guilty beyond a reasonable doubt, the CRU shall recommend that the Attorney General's Office seek relief from a conviction. If the CRU recommends a change in sentence rather than relief from conviction, it will do so only if new information or new understandings reveal that the sentence imposed is manifestly unjust.

The Attorney General shall have final decision-making authority to determine whether the applicant's case meets the requirements set forth above and it is in the interest of justice for the office to seek relief from a conviction or sentence. If the determination is made that relief is not warranted, the CRU shall communicate the reasons for its decision, in writing, to the applicant with an explanation as to why and how the decision was reached, including what investigative steps were taken. In such cases, the CRU shall also provide to the applicant all evidence uncovered in the investigation.

If the determination is made that relief is warranted, the CRU shall determine and consider all available and appropriate remedies, including recommending or seeking dismissal of the case, recommending or moving for a reduction of sentence, joining the applicant in filing a joint petition for postconviction relief, advocating before parole boards for early release, seeking expungement of the case, and/or supporting a request for clemency or pardon, where such remedies are in the interest of justice.

The CRU shall not do anything to cause undue delay in the release from custody of an applicant whose entitlement to post-conviction release has been established, for any reason; the CRU will recommend conditional release of those individuals pending the formalization of the conviction being vacated.

VICTIM OUTREACH & ADVOCACY

No one but the true perpetrator benefits from a wrongful conviction. However, the process of uncovering wrongful convictions understandably creates pain, anguish, and concern among victims, their family, and their friends, who may re-experience traumatic memories and fears about

what may happen if a conviction is overturned. Although these consequences are unintended, they are real. Therefore, the CRU shall be respectful of victims and institute a culture of keeping victims abreast of investigation outcomes when the outcome affects or changes the nature of the conviction or sentence. The CRU shall comply with all statutes and rules governing victims' rights and shall seek to engage a victim representative at any stage in the investigation when doing so may be in the best service of the investigation or the victim. Upon the Attorney General's decision to seek relief in a case, the CRU shall engage a victim representative to liaise with the victim or victims and offer whatever support and resources are mandated and available.

REENTRY ASSISTANCE & COMPENSATION ASSISTANCE

Where the CRU determines that a conviction should be overturned and a case dismissed based on actual innocence, the CRU may assist in securing necessary support and documentation, that facilitate successful reentry into the community and will support the application or enactment of systems of compensation for those wrongfully convicted.

This office recognizes that monetary compensation is essential to a wrongfully convicted person's ability to rebuild their life. Under Minnesota law, certain wrongfully convicted persons are eligible for compensation under Minnesota Statutes Section 590.11.

Where the investigation has demonstrated the applicant's innocence, the CRU shall encourage the prosecuting authority to assist the applicant in seeking the statutory compensation to which they are entitled, including filing in the district court, jointly with the applicant, if requested, a petition for compensation based on exoneration under Minnesota Statutes Section 590.11.

ACCOUNTABILITY AND TRANSPARENCY

The CRU shall establish a protocol for reporting colorable claims of misconduct by prosecutorial or law enforcement authorities and personnel.

The CRU will conduct business in the most transparent manner possible, with biannual updates to the website on the number of cases submitted, under review, rejected, and outcomes. The CRU shall have open discussions with a designated ethics officer about critical case-related decisions; the pursuit of justice and the interest in avoiding and remedying wrongful convictions shall be at the forefront of each decision.

The CRU's expansive scope of review and transparent practices are designed to remedy past individual wrongful convictions and enhance community confidence in the justice system, as well as provide a tool for improving office wide practices in a manner that reduces the likelihood of errors occurring again in the future.

When the CRU determines, after investigation, that relief is warranted in a given applicant's case, it shall conduct a root-cause analysis.

POLICY DEVELOPMENT

The outcomes of CRU investigations are intended to provide a critical opportunity to identify systemic gaps that go beyond just one individual's error and lead to the development of policy that will prevent future wrongful conviction. The CRU will have a clear avenue for recommending policy and procedural changes, as well as enhanced training, to address any deficiencies that are uncovered, including but not limited to:

- Consistent with its commitment to ensure that the forensic evidence underlying convictions is scientifically sound and accepted, the CRU may develop appropriate systems, curricula, and CLE opportunities to help ensure that forensic evidence is used appropriately office-wide, prospectively, at every stage of criminal and post-conviction proceedings.
- Consistent with its commitment to the use of best practices in policing, the CRU may develop appropriate systems, curricula, and CLE opportunities to help ensure that, statewide, prosecutors are regularly trained on what constitutes best practices in policing and rely on evidence obtained through policies and procedures reflecting the use of best practices in policing prospectively, at every stage of criminal and post-conviction proceedings.
- The CRU shall develop and maintain records to track errors and other causes of wrongful convictions uncovered in the course of its case reviews. This should include the use of jailhouse informants, false confessions, faulty eye-witness ID testimony, faulty forensic science, ineffective assistance of counsel, and government misconduct. On a periodic basis, not less than once a year, the CRU shall review the data collected to proactively recommend policy and procedural changes statewide. The CRU shall develop a well-defined method to develop, implement, and train the office on these changes. The CRU shall publish these findings and policy changes on the website not less than once a year.