

# Maryland Crime Victims' Resource Center, Inc.



Continuing the Missions of the Stephanie Roper Committee and Foundation, Inc.

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October 24, 2017

The Honorable Brett R. Wilson, Chairman  
Task Force to Study Erroneous Conviction & Imprisonment  
c/o Governor's Office of Crime Control & Prevention  
100 Community Place, Crownsville, MD 21032

Dear Chairman Wilson and Members of the Task Force:

RE: Victim Impacts Related to Erroneous Convictions

On behalf of the Maryland Crime Victims' Resource Center, Inc. (MCVRC) and the victims we annually serve across the State, we write to urge the Task Force to include consideration regarding what happens to victims and victims' representatives when there is an erroneous conviction. Those impacted by the crime must face the uncertainty regarding what had been considered a solved crime, to be an unsolved crime or a trial of a new alleged perpetrator.

Tearing open old wounds will likely inflict new trauma. Our system must treat victims with dignity, respect, and sensitivity. MCVRC makes two suggestions. First, we recommend the applicable period for filing an application for Criminal Injuries Compensation be extended. Second in light of the recent Supreme Court case of *Colorado v Nelson*, we recommend that subject to subrogation by the victim, the State treat restitution as it would fines, costs, fees, and compensation so that the victim is not revictimized by having to pay back the previously convicted, but now erroneously convicted offender for any restitution paid. Draft language is attached for consideration.

Thank you for your consideration. The State should reasonably do all in its power not to revictimize the victims.

Respectfully submitted,

*Russell P. Butler*

*Debbie Tall*

*Roberta Roper*

Russell P. Butler  
Executive Director

Debbie Tall  
Chairperson

Roberta Roper  
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1. Md. CRIMINAL PROCEDURE Code Ann. § 11-809

(a) (1) Except as provided in paragraph (2) **OR (3)** of this subsection, a claimant shall file a claim not later than 3 years after the occurrence of the crime or delinquent act or the death of the victim.

(2) In a case of child abuse, a claimant may file a claim:

(i) up to the date the child who was the subject of the abuse reaches the age of 25 years; or

(ii) if the Board determines that there was good cause for failure to file a claim before the date the child who was the subject of the abuse reached the age of 25 years, at any time.

**(3) IN A CASE WHERE THE GOVERNOR HAS ISSUED A PARDON IN ERROR, ANY COURT HAS OVERTURNED THE CONVICTION OF AN OFFENDER, OR A STATE'S ATTORNEY HAS ISSUED A CERTIFICATE OF A CONVICTION IN ERROR, A CLAIMANT SHALL FILE A CLAIM NOT LATER THAN 3 YEARS AFTER THE ISSUANCE OF THE PARDON, THE APPLICABLE COURT ORDER, OR THE CERTIFICATION.**

2. Md. State FINANCE AND PROCUREMENT Code Ann. §10-501.

(a) (1) Subject to subsection (b) of this section, the Board of Public Works may grant to an individual erroneously convicted, sentenced, and confined under State law for a crime the individual did not commit an amount commensurate with the actual damages sustained by the individual, and may grant a reasonable amount for any financial or other appropriate counseling for the individual, due to the confinement.

(2) In making a grant under paragraph (1) of this subsection **OR SUBSECTION (F) OF THIS SECTION**, the Board of Public Works shall use money in the General Emergency Fund or money that the Governor provides in the annual budget.

**(F) (1) FOR AN INDIVIDUAL UNDER SUBSECTION (B) OF THIS SECTION OR AN INDIVIDUAL WHOSE CONVICTION OR ADJUDICATION WAS REVERSED AND A COURT HAS DETERMINED THAT FINES, FEES, COSTS, AND RESTITUTION THAT WERE PAID MUST BE REFUNDED, THE BOARD OF PUBLIC WORKS SHALL ISSUE A GRANT IN A LUMP SUM OR IN INSTALLMENTS FOR THE AMOUNT OF FINES, COSTS, FEES, AND RESTITUTION DETERMINED THAT ARE OWED THE INDIVIDUAL.**

**(2) THE PAYMENT OF THE REFUND OF RESTITUTION BY THE STATE UNDER PARAGRAPH (1) OR THIS SECTION SUBROGATES THE STATE, TO THE EXTENT OF A PAYMENT FOR A REFUND OF RESITUTION, TO ANY RIGHT OF THE ORIGINAL RESTITUTION PAYEE TO RECOVER PAYMENTS WITH RESPECT TO THE CRIME OR DELINQUENT ACT REGARDING THE DAMAGES FOR WHICH THE JUDGMENT OF RESTITUTION WAS ENTERED.**