



Application for Conviction Review

I. INSTRUCTIONS

The Boulder County District Attorney's Office (DA's Office) will review, upon written request, certain convictions that occurred in Boulder County. In order for a case to be reviewed by the Conviction Integrity Unit (CIU), it must meet all eligibility requirements, including that it must be a claim of actual innocence, with credible evidence, of a Boulder County Case. The CIU does not review sentence reduction requests, claims involving procedural error only, or cases that occurred in another jurisdiction. Additionally, there must be an assertion of new information that was not known or considered at the time of trial or plea. Disagreeing with the outcome of the trial, sentence, or plea is not grounds for CIU review.

This application is a written request to have an eligible conviction reviewed, and the person convicted must be asserting that they are innocent of the crime for which they were convicted. Convictions will not be reviewed without a complete application. This application must be signed by the person who was convicted of the crime or by an attorney representing the convicted person. If the convicted person is represented by counsel, this form must be submitted in consultation with the convicted person's attorney.

II. ADVISEMENT

The CIU is a peer review board consisting of individuals and local private attorneys from the Colorado Public Defender's Office, the University of Colorado Law School, Alternative Defense Counsel, and the Boulder County District Attorney's Office that are volunteering their time to the panel at the request of the Boulder County District Attorney. Please understand that neither the CIU, nor any member of the CIU, is acting as an attorney for the applicant and/or the convicted person or providing any legal advice. Furthermore, any information provided to the CIU is not confidential. It may be provided to law enforcement and may be used against the applicant and/or the convicted person.

III. IMPLICATION OF RIGHTS

If the CIU engages in a review of a conviction, it is likely the CIU may request additional information from the applicant and/or the convicted person. It is also possible that the CIU will request information from others identified as having relevant information, including any attorney who participated in the proceedings that led to the underlying conviction.

This form is not intended to provide legal advice. Nevertheless, any person who completes and submits this form should recognize that they have the right not to provide information to an agency of government about a criminal matter. By submitting this form, you acknowledge that any information you provide in this form is given voluntarily, that no promise or inducement has been conveyed to you, and that you are providing information of your own free will.

For DA use only:

Claim #:

Similarly, you acknowledge that in certain situations the CIU may request authorization for the attorney who represented the convicted person in the criminal case to discuss with the CIU the events that led to the conviction under review. The CIU will not contact the attorney who represented the convicted person at the time of the conviction or appeal unless the CIU is given written permission for such contact, and the CIU cannot require that the convicted person's attorney speak about the case without the convicted person's permission.

IV. ELIGIBILITY

The CIU only reviews claims of actual innocence with credible evidence, as defined below.

Eligible claims must meet all eligibly requirements:

1. This application must be completed in full and received by the DA's Office.
2. The conviction must have been in the Boulder County Courts (also called the 20th Judicial District of Colorado).
3. The convicted person must currently be a living person.
4. There must be a claim of actual innocence. This means the convicted person must be asserting that they are *innocent of the crime* and not solely asserting legal issues or challenges to the process.
5. Credible evidence of innocence must exist. Credible evidence must be new evidence that was not fully considered by the trial jury or the parties at the time of the trial or the guilty plea.
6. The claim must not be frivolous. The claim must have merit and be made in good faith.
7. The convicted person must sign this written limited waiver of certain procedural safeguards and privileges, agree to cooperate with the CIU, and agree to provide full disclosure regarding all requirements of the CIU.

As stated above, only applications asserting a claim of actual innocence with credible evidence will be reviewed. Please review the following further explanations and definitions:

- The CIU will not consider legal or evidentiary issues previously raised or issues that were not raised but could have been raised during plea bargaining, trial, appellate, or post-conviction processes. The CIU does not review for disagreements solely on defense attorney strategy. The CIU does not review strictly legal challenges such as procedural errors or judicial rulings unless there is an obvious material error or ruling that necessitates such review in light of an *accompanying credible claim of actual innocence*.
- A claim of innocence must be supported by credible evidence that is new evidence or that was not fully considered by the trial jury or the parties at the time of the trial or guilty plea and is material to the issue of innocence (meaning it likely would have changed the outcome). Credible evidence means evidence that is not speculative, but which has a basis in fact, and which can be investigated. The evidence must be material as to the determination of actual innocence, meaning if true and accurate, it could affect the

outcome of the innocence determination. The credible evidence must provide a substantial basis to believe that the defendant is actually innocent, which generally means that the evidence exonerates the defendant from criminal responsibility for the offense.

- Particular attention will be given to newly discovered evidence or evidence supporting wrongful conviction due to issues concerning forensic science, misidentification, misconduct or Brady/discovery violations, jail/confidential informant, alibi, and witness recantation.
- The CIU will not consider claims based solely on a request that a lawful sentence be amended, reduced, or reconsidered. Disagreement with the outcome at trial, plea, or sentence will not be reviewed.
- The CIU will not consider claims involving self-defense or defense of others that do not involve new information, were previously considered by the District Attorney's Office, or were litigated at trial.
- Claims made by an applicant who has pled guilty to a crime(s) are subject to a higher standard of acceptance by the CIU due to the presumption that a plea of guilty is entered knowingly, intelligently, voluntarily, and, in some instances, with the assistance of counsel. This presumption may only be overcome with credible and compelling evidence of actual innocence.

V. SUBMISSION OF APPLICATION

Once completed, mail or email this application and copies (but not originals) of any documents or materials you believe are necessary to conduct a review of your case to:

Office of the District Attorney, Twentieth Judicial District
Conviction Integrity Unit
1777 6th Street
Boulder, CO 80302

[Email:](mailto:CIU@bouldercounty.org)

CIU@bouldercounty.org

Once the DA's Office receives the completed and signed application form, the case will be screened to determine if the claim is eligible for further review. You will receive a letter back from the DA's Office letting you know that the application was received, and then a subsequent letter to inform you of the eligibility determination. If the case is determined not to be eligible for further review, you will receive a letter indicating such. If the case is determined eligible for a formal review by the CIU, you will receive a letter indicating that your case is under formal review. The length of time that the initial screen and potential formal review may take cannot be predicted and will depend on factors such as the type of offense(s) involved, the nature of the claim, the age of the case, and the availability of case materials and witnesses.

VI. COOPERATION OF APPLICANT

The convicted person must fully and openly cooperate with the CIU consistent with the implication of rights and waiver and consent form. If the convicted person is represented by an

attorney at the time of the CIU application or review, they must consult with their attorney and all communication from the DA's Office must be made through that attorney, unless the attorney signs an express signed limited waiver (See Section XI).

VII. APPLICANT INFORMATION:

1. Is this request being submitted by someone other than the convicted person?

YES NO (If NO, please move on to #4)

2. If yes, have you obtained the written consent of the convicted person to file this request?

YES NO (If YES, you must attach written consent to this application)

3. Contact information for applicant, if other than the convicted person:

Name: _____

Relationship to Convicted Person: _____

Street Address: _____

City State, Zip: _____

Phone Number: _____

Email Address: _____

VIII. CASE INFORMATION

4. Convicted Person Information:

Name: _____

Date of Birth: _____

Street Address: _____

City State, Zip: _____

Phone Number: _____

Email Address: _____

Currently incarcerated: YES NO

a. Current Prison/Jail: _____

b. Inmate Number: _____

5. Boulder County Court Case #:

a. Charge(s) for which person was convicted:

b. Charge(s) for which innocence is being claimed:

c. Date convicted:

d. Date sentenced:

e. Sentence received:

f. Expected release date:

6. How did conviction occur?

a. Jury Trial

b. Court Trial

c. Guilty Plea

d. No Contest Plea

7. Is the conviction currently being challenged on appeal or is there any other pending litigation? YES NO

If yes, please provide as much detail as possible including names and contact information of those agencies/individuals:

8. Is any other agency reviewing this case for a claim of innocence at this time?

YES NO

If yes, please provide as much detail as possible including names and contact information of those agencies/individuals:

9. Was the convicted person represented by an attorney at any time during the pendency of the case for which they were convicted? YES NO

If yes, the convicted person will need to sign a waiver of attorney-client privilege for the CIU to speak to any attorney if the case is accepted by the CIU. Please provide any and all attorney's names and contact information:

IX. FACTS SUPPORTING INNOCENCE:

10. Explain why the convicted person is innocent in as much detail as possible (continue on next page if needed):

11. What credible evidence supports this claim of innocence? Include any of the following: alibi, alternate suspects, misidentification, physical evidence, forensic evidence such as DNA or fingerprints, false confession, jail house informant, misconduct, etc. (continue on next page if needed):

X. LEGAL COUNSEL

12. Is the convicted person currently represented by an attorney in this case in any capacity?

YES NO (If NO, please move on to Section XII)

13. Attorney Contact Information:

Name: _____

Firm: _____

Address: _____

Phone Number: _____

Email: _____

I have been consulted and am representing _____
in this matter.

ATTORNEY SIGNATURE: _____

NAME: _____

BAR #: _____

DATE: _____

XI. LIMITED WAIVER – To be filled out by counsel if counsel prefers the CIU to communicate directly with the convicted person.

***All correspondence from the DA’s Office will only be made to the above-named attorney unless the following waiver is completed. **Counsel should complete the waiver below ONLY IF it is requested that the Boulder County District Attorney’s Office Conviction Integrity Unit communicate directly with the convicted person:**

I, _____, do hereby expressly grant the Boulder County District Attorney’s Office Conviction Integrity Unit, and any of its members, investigators, or agents, permission to communicate directly with my client _____ regarding the application and investigation into their claim of innocence in case # _____.

I hereby attest that I have discussed this with my client, and they knowingly and voluntarily make this decision fully understanding all legal ramifications.

ATTORNEY SIGNATURE: _____

NAME: _____

BAR #: _____

DATE: _____

XII. ACKNOWLEDGMENT, WAIVER, AND CONSENT FORM

(Must be completed by the Convicted Person)

The person convicted of the crime must READ and INITIAL each line below. This indicates you understand and agree to the following:

_____ I am requesting that the CIU review my claim of actual innocence for my conviction(s) in this case. I believe that credible evidence of innocence or injustice exists.

_____ I consent to a formal inquiry of my case by the CIU.

_____ I agree to fully cooperate with the CIU's review.

_____ I agree to provide full disclosure regarding all inquiries made by the CIU.

_____ I understand and agree that the Boulder County District Attorney will—with input from the CIU—make any and all final decisions with regard to this application.

_____ I understand and agree that the Boulder County District Attorney does not have to provide any explanation to me for any decisions that are made with regard to this application.

_____ The CIU is not a governmental body and is not exercising judicial or quasi-judicial functions. I understand and agree that this is an extrajudicial (outside of the court) process and there is no right of review or appeal of any decision by the District Attorney regarding my application to the CIU.

_____ I understand that the CIU, or any member of the CIU, is not my attorney and is not providing legal advice.

_____ I understand that statements made to the CIU are not confidential and may be used against me in future criminal proceedings.

_____ As it relates only to my pending application and the associated case being reviewed by the CIU, I am waiving my right against self-incrimination pursuant to the Fifth Amendment of the United States Constitution and the Colorado Constitution.

_____ I understand that a claim with the CIU will not extend any deadlines of any proceedings, including without limitation any appellate proceedings.

_____ I understand that the CIU may disclose to any authorities any evidence or information uncovered or learned by the CIU, including information that tends to show that other people may have been involved in the commission of the crime(s) for which I was convicted.

_____ I understand that the CIU will refer any and all evidence or information or any criminal acts or other wrongdoings to the appropriate law enforcement authorities.

_____ I also understand that evidence uncovered by the CIU that is favorable to me shall be disclosed to me or my legal representative regardless of the outcome of the review.

_____ I certify that all of the statements made in this application are true and accurate.

_____ I acknowledge that providing false information will result in a dismissal of my claim.

_____ I understand the CIU may determine that my case does not meet the criteria for review at any point and may reject my claim without any explanation, and without any review or appeal by any court or agency.

_____ I understand that if I refuse to cooperate in any way or become uncooperative with the CIU's review process, the review may be cancelled.

CONVICTED PERSON SIGNATURE: _____

NAME: _____

DATE: _____

XIII. DISCLAIMER:

The Boulder County District Attorney's Office Conviction Integrity Unit (including individuals from other units in the Office assisting in CIU investigations) reviews cases for the sole purpose of investigating claims of actual innocence. The decision to review and further investigate a claim cannot be inferred as an acceptance of the validity of the alleged innocence claim. The CIU is a volunteer peer review panel only and, therefore, neither the CIU—as an independent peer review panel—nor any members of the CIU will be a party to or participate in any litigation of any kind. It is also understood that none of members of the CIU represents, or provides legal advice to any party, individual or entity, and their participation on the CIU does not create an agency or fiduciary relationship or duty between such members and anyone, or any entity. It is also understood that participation on the CIU by the District Attorney, or any lawyer, member, or staff of the Boulder County District Attorney's Office, does not disqualify the District Attorney or anyone at the DA's Office from conducting their normal duties in relation to the convicted person and/or any information or individuals discussed by the CIU.

CONVICTED PERSON SIGNATURE: _____

NAME: _____

DATE: _____

Attach any copies of documents that support the claim of innocence