

## **The State Compensation Table: An Explanation**

### The Research

The State Compensation Table provides state by state data of state statutory compensation activity. It summarizes data collected over time by the National Registry and Professor Jeffrey Gutman of the George Washington University Law School. It reflects which exonerees listed in the National Registry who were wrongly convicted of crimes in states with state compensation statutes sought compensation and what happened with each of these claims.

First, a few disclaimers. Generally, information about wrongful conviction compensation activity pursuant to state compensation statutes is publicly available. Some states post it on websites. For others, person-by-person searches are required in state court or court of claims dockets. Some states provided otherwise non-public data following informal requests or requests under applicable FOIA statutes. We examined multiple sources of information when possible.

In general, the data is quite accurate. It may not be perfect. Searches are limited by the accuracy of the name recorded in databases. It is possible that some exonerees with changed names, whose claims were filed by third parties, like estate executors, or who have common names might not have been accurately captured. Older compensation activity is often harder to come by than recent activity.

On occasion, various searches and requests surfaced conflicting information. Generally, in that instance, the higher compensatory amount was recorded. When the state provided the data, money paid to exonerees' attorneys was excluded. The data provided by many states, however, did not disclose the payment of attorney's fees. In such cases, we assumed that the claimant received the entire amount. In general, though, the figures reflect the amounts received by the exoneree, not the amount paid by the state.

The NRE calculates the number of years each exoneree was imprisoned following conviction. Generally, we used the Registry's "lost years" number that appears on the website. Several states, however, explicitly determine its own lost years amount. They may, for example, count pre-conviction detention time, which the Registry does not. In such cases, we used the state calculation rather than the Registry's.

There are a relatively small number of people who received compensation under a state statute who do not qualify for entry on the Registry. They are not included in this data.

### The Table

Columns A and B list the states, plus the District of Columbia, Guam and Puerto Rico, identify whether the state has a compensation statute, and, if so, when it was enacted. Column C states the number of exonerees listed in the Registry in that state. Here, it is important to understand two things. First, the number reflects people who were wrongly convicted in state,

not federal court. Second, the number may be smaller than the one shown on the Registry as research is done on new exonerees added to Registry.

Column D shows the number of exonerees in that state who were incarcerated wrongfully. Only this group of exonerees can receive compensation, except in Illinois where those not incarcerated may nevertheless be compensated, and one in Texas who received compensation for having been listed on a sex offender registry. As a result, in calculating the percentages reflected in Columns H, J and O, all Illinois exonerees (not just those incarcerated) are included in the denominator. For every other state, except for the one in Texas, only incarcerated exonerees are included. This small wrinkle is denominated by the asterisk the Column headings. Column E shows the number of exonerees in that state who did not serve prison time as a result of the wrongful conviction.

Obviously, an exoneree may or may not file for state statutory compensation. If they did not, but the applicable statute of limitations would still allow them to file, they are coded as **premature**. Those numbers are found in Column F. States with new statutes have a lot of premature exonerees because they typically allow those exonerated prior to the passage of the statute to file. If the time has passed for any exoneree to file a claim to do so, however, they are coded as a “non-filer” and those numbers are shown in Column G. The percentage of “non-filers” – people who have not and cannot file - in the state is reflected in Column H.

Column I, in contrast, provides the number of exonerees listed on the Registry who did file a claim. Column J provides the percentage. The percentages in Column H and J do not add up to 100% because the premature exonerees are excluded.

Once someone has filed, three things can happen: they are **awarded** compensation, they are **denied** compensation or their claims are yet undecided, or **pending**. Column K shows the number of awarded claims. Column L shows the percentage of filed claims that were awarded. Column M shows the number of denied claims per state. Column N provides the number of pending claims. Eventually, they will either be granted or denied. Cases that are on appeal but have not been decided are coded as pending regardless of what happened below.

Column O provides the percentage of exonerees wrongfully convicted in state courts in that state listed in the NRE’s database who were compensated pursuant to state statute. Column P shows the amount of compensation received by exonerees pursuant to state compensation statutes in that state. Amounts known to be paid to attorneys are not included. A small qualification is needed here. In some states that now have statutes, exonerees may have received compensation through a private bill before the compensation system was established. Those are included as paid claims. States without statutes but who nevertheless paid exonerees outside of a state statute are not included. That excluded a small number of people in Arkansas and Georgia.

Column Q sets for the total number of years lost to wrongful incarceration by exonerees in that state. That amount is calculated by researchers at the Registry. If, as described above, the state calculated the lost years differently for purposes of making an award, the state number was used.

Column R states the number of years lost experienced by exonerees who did receive compensation. That's important. A state can have a relatively modest percentage of paid exonerees, but they can account for a lot of the state's lost time. Texas is the best example of this. States should be judged, at least in part, on the percentage of lost time that is compensated. The percentage of paid exonerees does not tell the whole story. Column U provides the percentage of lost years paid.

Column S provides the average amount paid per compensated exoneree. That amount is calculated by taking the total amount paid by the state divided by the number of compensated exonerees. Column T provides the average amount received by paid exonerees per year in that state. The calculation is simple – the total amount paid divided by the paid years lost. It does not, however, take into account the value of any non-monetary compensation received. Those figures are generally not available.

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