

## 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 of Exonerations (NRE) and Professor Jeffrey S. Gutman, of the George Washington University Law School. It reflects which exonerees listed in the NRE's database 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 online. For others, person-by-person searches are required in state court or court of claims dockets. Some states provided otherwise non-public data as a result of informal requests or formal requests under applicable FOIA statutes. Multiple sources of information were examined when possible.

In general, the data is quite accurate. Searches are limited by the accuracy of the name recorded in databases. It is possible that some exonerees with changed names or 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 data was available, money paid to exonerees' attorneys was excluded. But, the data provided by many states did not reference the particular payment of attorney's fees. In such cases, it was assumed that the entire amount was received by the claimant. To the extent possible, 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, the NRE's "lost years" number that appears on the website was used. In several states, however, the state explicitly determined its own lost years amount, which may count pre-conviction detention, unlike the NRE. In such cases, the state calculation rather than the NRE's was used.

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

### The Table

Columns A and B obviously list the states, plus the District of Columbia, Guam and Puerto Rico and 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 NRE's database 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 NRE's as research is done on new exonerees added to the NRE.

Column D shows the number of exonerees in that state who were incarcerated wrongfully. In all states except Illinois only this group of exonerees can possibly receive compensation. 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, like Oregon, 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 them to do so, however, they are coded as a "non-filer" and those numbers are shown in Column G. The percent 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 NRE that 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 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 wrongly 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. 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 NRE. 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. A state can have a relatively modest percentage of paid exonerees, but they can account for a lot of the state's lost time.

Column T provides the percentage of lost years paid.

Column S 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.