



**OFFICE OF THE  
ILLINOIS ATTORNEY GENERAL**  
**KWAME RAOUL**



**Office of the Illinois Attorney General  
Conviction Integrity Unit**

**FREQUENTLY ASKED QUESTIONS**

**1. Q: What does the Illinois Attorney General’s Conviction Integrity Unit (CIU) do?**

**A:** The CIU investigates **claims of actual innocence** to determine whether new, credible evidence and information substantially proves that the applicant was not the person who committed the offense of which s/he was convicted. If the CIU determines that a convicted person should be exonerated, it makes that recommendation to the Illinois Attorney General.

*NOTE: The Illinois Attorney General makes all final decisions about whether a convicted person should, in fact, be exonerated.*

**2. Q: What does “actual innocence” mean?**

**A:** “Actual innocence” means that a person had NO criminal responsibility in the offense of which s/he was convicted and can provide new, credible evidence to substantiate his/her claim.

**3. Q: Is the CIU part of the post-conviction process provided under Illinois law?**

**A:** No. There are important differences between a review by the CIU and a post-conviction petition, although both exist to prevent an unjust result.

The Illinois Post-Conviction Act (725 ILCS 5/122-1 et seq.) allows convicted defendants to show that their conviction was obtained in violation of a constitutional right, such as the right to be free from unlawful searches (the Fourth Amendment), the right to remain silent when questioned by police (the Fifth Amendment), or the right to a competent lawyer (the Sixth Amendment).

The CIU was not created by statute, its investigations are not part of any court action and therefore it is not governed by court rules of procedure. The CIU functions as an arm of the Illinois Attorney General’s authority (as the chief legal officer of the state).

Due to limited resources, before the CIU acts, it determines whether a convicted person is also litigating a petition for relief under the Post-Conviction Act. If a convicted person has any pending post-conviction actions or time remaining in which to file such actions, the CIU does NOT investigate his/her claim of actual innocence. The CIU proceeds only after ALL post-conviction actions have been exhausted.

**4. Q: If I want the CIU to review my claim of actual innocence, do I need an attorney?**

**A:** No.

**5. Q: Who may petition the CIU for post-conviction review?**

**A:** Although specific eligibility requirements must be met (see #9 below), generally, any person incarcerated in an Illinois prison, who was convicted as an adult of a forcible felony by an Illinois state court, OR his/her attorney, may seek review.

***NOTE:** “Forcible felony” means any felony which involves the use or threat of physical force or violence against any individual that results in great bodily harm or permanent disability or disfigurement, such as first or second-degree murder, criminal sexual assault, robbery, arson, kidnapping, or aggravated battery. (See 720 ILCS 5/2-8 for a complete definition)*

**6. Q: Are there any costs for submitting an application or associated with evidence collection/analysis?**

**A:** No costs are associated with the CIU’s post-conviction review process.

**7. Q: What relief can be granted by the CIU?**

**A:** None. The CIU evaluates, investigates, and recommends, but the final decision of granting relief rests with the Illinois Attorney General.

When an investigation demonstrates a substantial probability that the applicant is actually innocent of the offense of which s/he was convicted, the CIU makes a recommendation for exoneration to the Illinois Attorney General.

**8. Q: Must the case be solved for the CIU to recommend exoneration?**

**A:** No. A wrongfully convicted person may get relief even if the true offender is never identified or prosecuted for the crime.

**9. Q: What are the CIU’s eligibility requirements?**

**A:** In general, the claim must meet two essential criteria. First, the applicant must assert “actual innocence,” which means that s/he had NO criminal responsibility in the offense of which s/he was convicted. Second, the claim of actual innocence

must be based on new, credible evidence, that is, evidence NOT considered by the trier of fact during the proceedings that led to the conviction. If the evidence submitted in support of a claim of actual innocence was previously considered and rejected by a court at trial or on direct appeal, the CIU does not investigate.

*NOTE: The sole exception to the requirement for these criteria would be based on a showing that the investigative or fact-finding process that led to the conviction was so fundamentally flawed that the guilty verdict cannot reasonably be relied upon as accurate. Such decisions are left to the discretion of the CIU.*

**For specific eligibility requirements**, please click on the “Eligibility Requirements” link on our website.

**10. Q: Will the CIU accept an actual innocence claim from a convicted person who pled guilty?**

**A:** Yes. A person whose conviction resulted from a guilty plea is eligible for consideration. However, s/he must have had NO criminal responsibility in the offense of which s/he was convicted by an Illinois state court.

**11. Q: Will the CIU accept an actual innocence claim from a person convicted outside of Illinois?**

**A:** No. The CIU cannot review non-Illinois convictions.

*NOTE: Additionally, the OAG-CIU may redirect an applicant to first apply for a post-conviction review through his/her local State’s Attorney’s Office (SAO) (for example, if the applicant’s SAO operates an independent CIU). If an applicant has a pending post-conviction case review with their State’s Attorney’s Office/CIU, the OAG-CIU may defer its initial intake screening and/or subsequent review until the local State’s Attorney’s Office has made a determination.*

**12. Q: When can a claim of actual innocence be filed?**

**A:** A claim of actual innocence can be filed with the CIU at any time AFTER the conviction is **final**. A conviction is not final if ANY post-conviction litigation is still pending when the actual innocence claim is submitted to the CIU.

*NOTE: Because our review of an actual innocence claim does NOT extend the time prescribed to pursue other post-conviction remedies, the CIU does not investigate innocence claims until all post-conviction litigation options have been exhausted.*

**13. Q: How is an actual innocence case initiated with the CIU?**

**A:** **ONLY** official CIU Application Packets are considered for review. The official CIU Application Packet includes the following: 1) the CIU Application and Consent Form; 2) Limited Waiver; and 3) Agreement Form. All of these documents, as well as our Pre-Screening Questionnaire, can be downloaded from our website.

***NOTE 1:** Not all applications will qualify for a post-conviction review. Before completing a CIU Application Packet, we **strongly encourage** you to complete our Pre-Screening Questionnaire to determine if you meet our eligibility requirements.*

***NOTE 2: DO NOT SEND** additional documentation. Your Application Packet will be thoroughly screened. If it is eligible for further review, we will notify you (in writing) to request documents that may support your actual innocence claim.*

**If you are submitting your Application Packet via U.S. Mail, please send to:**

Office of the Illinois Attorney General  
Conviction Integrity Unit  
Address

**14. Q: What happens after the CIU receives a CIU Application Packet?**

**A:** The CIU first screens the claim of actual innocence to determine the convicted person's eligibility for a review. This means the CIU evaluates an Application Packet to confirm that it is complete and meets the basic criteria for a claim of actual innocence (for more information, click on the "Eligibility Requirements" link on our website). If the basic criteria for an actual innocence claim are not met OR additional information is needed, the applicant (or his/her attorney, if applicable) is notified in writing (for more information on CIU notifications and correspondence, click on the "CIU Correspondence" link on our website).

When a claim of actual innocence fails to meet the CIU's eligibility requirements, no further action is taken (i.e., the case is terminated).

If the CIU Application Packet is complete and the basic criteria are met, the CIU notifies the applicant and reviews the procedural history of the case to determine whether the evidence on which the claim of actual innocence is based was considered and rejected by the court that imposed judgment.

If the new evidence seems credible and was NOT rejected by the court that imposed judgment, the CIU may initiate an investigation.

**15. Q: Who evaluates and investigates actual innocence cases?**

**A:** CIU lawyers examine available materials from the criminal proceedings that led to the conviction, including but not limited to: police reports; trial transcripts; and pleadings.

CIU investigators locate and interview witnesses who have been identified as supporting the claim of innocence (along with performing other investigative duties). They may also interview the applicant or the attorney(s) who represented the applicant during the original proceedings. Additionally, when feasible and deemed essential to the investigation, arrangements are made for forensic analysis of physical evidence.

***NOTE:** The CIU stands apart as an independent unit within the Office of the Attorney General. It functions outside of the OAG's Criminal Enforcement Division.*

*The CIU's assistant attorneys general (AAGs) and investigators are NOT involved in the investigation or prosecution of any pending criminal cases. Furthermore, NO AAG, law enforcement officer, or investigator who was involved in the prosecution of a case under review by the CIU plays any decision-making role in the investigation. In rare circumstances, at most, such persons might be interviewed about the historical events of a case.*

**16. Q: Can I revoke the Limited Waiver that I signed?**

**A:** Yes. The Limited Waiver may be revoked at any time.

The CIU's Application Packet includes a Limited Waiver. This document asks an applicant to waive his/her right against self-incrimination pursuant to the Fifth Amendment of the United States Constitution and Article 1, Section 10 of the Illinois Constitution—as it relates ONLY to the case being reviewed by the CIU.

The CIU's Limited Waiver also asks the applicant to waive attorney-client privilege for any attorney who has represented him/her in the past on the case under review or who is currently assisting him/her with a claim of actual innocence.

**To revoke the Limited Waiver, please click on the "CIU Correspondence" link and then download "Revocation of Limited Waiver."**

**If you are submitting your Revocation of Limited Waiver via U.S. Mail, please send to:**

Office of the Illinois Attorney General  
Conviction Integrity Unit  
Address

***NOTE:** Even if an applicant revokes the Limited Waiver, the CIU still has discretion to investigate the actual innocence claim to the greatest extent possible without violating the applicant's rights.*

**17. Q: Must I waive any rights to have my actual innocence claim reviewed?**

**A:** No. However, waivers allow for a more in-depth investigation into the facts alleged and may be necessary for a thorough investigation.

**18. Q: What if I decide that I don't want the CIU to continue investigating my actual innocence claim at all? Can I stop the investigation?**

**A:** No. An applicant does NOT enjoy an exclusive right to terminate the investigation of his/her actual innocence claim. That determination is left to the discretion of the CIU and is contingent on the nature of the evidence and testimony uncovered during the investigation. Nevertheless, if an applicant desires to **terminate his/her participation** in the investigation of his/her actual innocence claim, s/he **MUST** notify the CIU in writing.

Please click on the "CIU Correspondence" link on our website and download "Decision to Terminate Participation."

**If you are submitting a Decision to Terminate Participation form via U.S. Mail, please send to:**

Office of the Illinois Attorney General  
Conviction Integrity Unit  
Address

**19. Q: What happens if I fail to fully cooperate with the CIU's investigation?**

**A:** Per the CIU Agreement, Consent Form, and Limited Waiver that an applicant signs, s/he has a duty to produce all of the evidence, documents and information relevant to his/her actual innocence case. Applicants who withhold evidence and/or decide to release information in stages may have their cases rejected for failure to participate in the CIU's review process in good faith.

***NOTE:** Knowingly providing false information to the CIU will automatically disqualify an application and may have additional consequences.*

**20. Q: What happens if the CIU's investigation of my actual innocence claim reveals that my relatives and/or friends were involved in the crime of which I was convicted but were never charged? Will the CIU report that information to law enforcement authorities?**

**A:** Yes. As an arm of the Illinois Attorney General's Office, the CIU has a duty to notify proper law enforcement authorities of any individual reasonably suspected

of criminal activity. Likewise, evidence uncovered by the CIU during its investigation may be shared with a prosecutorial entity.

*NOTE: While reporting criminal activity to proper authorities is our policy and standard practice, the scope of a response varies based on the reliability of corroborating evidence.*

**21. Q: What happens if the CIU’s investigation of my actual innocence claim reveals that I am guilty of other crimes but was never charged? Will the CIU report that information to law enforcement authorities?**

**A:** Yes. As an arm of the Illinois Attorney General’s Office, the CIU has a duty to notify proper law enforcement authorities of any individual reasonably suspected of criminal activity. Likewise, evidence uncovered by the CIU during its investigation may be shared with a prosecutorial entity.

*NOTE: While reporting criminal activity to proper authorities is our policy and standard practice, the scope of a response varies based on the reliability of corroborating evidence.*

**22. Q: How long (on average) does it take the CIU to reach a conclusion about an actual innocence claim?**

**A:** All cases are different, and many factors must be considered when evaluating and investigating an actual innocence claim.

We determine the general eligibility of the claim within six (6) months of receiving an Application Packet. If your application is ineligible for further review, you will be notified, in writing, of the CIU’s decision within that time.

It takes considerably more time, however, to conduct a thorough investigation of an actual innocence claim. Therefore, there is no “average” time within which the CIU reaches its conclusions. Regrettably, but necessarily, some claims may need to wait while the CIU evaluates and investigates other claims of higher priority.

**23. Q: What updates (via correspondence) can I expect to receive during the investigation of my claim of actual innocence?**

**A:** An applicant does not enjoy an absolute right to have notice of the CIU’s investigative activities and, in most instances, will NOT be updated during the investigation of his/her actual innocence claim. To preserve the integrity of its investigation, the CIU reserves the right to determine whether any investigative efforts and/or results should be disclosed prior to reaching its conclusion.

**24. Q: How will I know what conclusion(s) has/have been reached by the CIU?**

**A:** All cases are different, and many factors must be considered, including but not limited to the age and complexity of the case, the information available to the CIU, and the number of applications being reviewed at the time. Once the CIU completes its investigation, it presents its findings and recommendation(s) to the Illinois Attorney General, who has final decision-making authority. Applicants are notified, in writing, of the outcome of their cases at that time.

**25. Q: If I disagree with the conclusion(s) reached by the CIU, what rights do I have for further review?**  
...

**A:** None. The existence of this statewide CIU does not create or confer any legal right on those who bring claims of actual innocence. For this reason, **there is no “right” to appeal its determinations.**

**26. Q: I received a rejection letter from the CIU but now have new evidence/information. Will the CIU review my actual innocence claim again?**

**A:** Yes. If new, credible evidence has been discovered since the closure of an applicant’s original actual innocence case, s/he may resubmit a new CIU Application Packet for review.

***NOTE:** A SEPARATE CIU Application Packet MUST be submitted for EACH case that the applicant is seeking to have reviewed.*

**27. Q: What if I have questions not answered here?**

**A:** The CIU cannot provide legal advice or act as your legal representative. Should you have further questions, we encourage you to seek the assistance of an attorney. You may have additional legal remedies that would not be addressed by the CIU, so we encourage you to consult with an attorney who specializes in post-conviction litigation.