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From the Los Angeles Times

## State fails wrongly convicted prisoners

They face obstacles to getting rights restored, and compensation is inadequate, says a blue ribbon commission.

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California does a bad job of compensating people wrongfully convicted in its courts, a blue ribbon commission said Friday. Men and women imprisoned for years, even decades, for crimes they didn't commit are offered fewer benefits than convicts released on parole, the commission said.

Exonerated prisoners "face many difficult obstacles to full restoration of their rights and liberties, and the compensation they receive for their losses is frequently inadequate," said the California Commission on the Fair Administration of Justice, a state body chaired by former California Atty. Gen. John Van de Kamp that has been studying the problem of wrongful convictions.

The commission, which includes prosecutors, defense lawyers, law professors and law enforcement officials, recommended a number of reforms, including giving wrongly convicted men and women state assistance in locating housing, a cash allowance, clothing and employment counseling. But the proposals would hardly open the floodgates. The compensation, "should be limited to those who have been found innocent of the crime or crimes for which they were convicted and imprisoned, not because of procedural errors in their trials," the panel said.

The commission also recommended that:

- \* Exonerated prisoners be permitted two years rather than six months to file compensation claims.
- \* The maximum compensation be increased from \$36,500 to \$50,000 for every year of incarceration.
- \* People who gave false confessions or forced guilty pleas be allowed to seek a court determination of factual innocence, the gateway to compensation.
- \* The deadline for a wrongfully convicted person to sue his trial lawyer for malpractice should be pushed back. The commission said the recent case of Peter Rose, who was wrongfully convicted of the kidnap and rape of a 13-year old girl in November 1995, demonstrates the need for this reform.

Rose's conviction was vacated in October 2004 after he was exonerated by DNA testing. He filed a complaint against his original defense lawyer, alleging that the lawyer's negligence contributed to his wrongful conviction. But the suit was dismissed because it was not filed within the statute of limitations, "even though the court conceded that he could not have recovered on his claim until his conviction had been vacated," the commission report said. Rose is one of 15 wrongfully convicted individuals who have been compensated by the state. The state has denied 25 claims and dismissed an additional 19 because they were untimely, incomplete or the claimant had not been released from prison.

Commissioners also recommended that the state resume funding for the Northern California Innocence Project at Santa Clara University Law School and the California Innocence Project at Cal Western Law School in San Diego, the primary legal groups in the state fighting to overturn wrongful convictions.

The Legislature in 2001 allocated \$1.6 million over two years to provide lawyers to assist inmates with innocence claims. The legal assistance funding was eliminated in 2003 because of state budget cuts.

To date, the two Innocence Projects "have succeeded in helping to exonerate 11 people, two based on DNA evidence and nine on other grounds. Each exoneration has saved the state the cost of housing an innocent person," the commission said. The group also pointed out that the 1996 exoneration of Kevin Green, an Orange County man who spent more than 15 years in prison for the assault on his wife and murder of their unborn child, led to the conviction of the real murderer and rapist.

The report said the two Innocence Projects are now actively investigating 288 cases and have a backlog of 700 cases.

Santa Clara University law professor Gerald Uelmen, the executive director of the commission, said that Assemblymen Jose Solorio (D-Santa Ana), chairman of the Public Safety Committee, would introduce legislation embodying the reform proposals and others.

"We are very optimistic this package will make it through the Legislature and get the governor's signature," said Uelmen, noting that it has the full support of law enforcement.

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