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What do states owe the exonerated?

States' compensation for wrongful imprisonment ranges from zero to millions of dollars.

By Amanda Paulson, Staff writer of The Christian Science Monitor / May 30, 2007

Chicago

This month, two men – both freed last year after DNA evidence exonerated them of the crimes for which they'd been in prison – received drastically different news about how they might be compensated for those lost years.

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Connecticut legislators voted to award \$5 million to James Tillman to help him get his life back on track after 18 years behind bars for a rape he didn't commit.

The Florida Legislature, on the other hand, denied Alan Crotzer's request for \$1.25 million and let a bill die that would have standardized a compensation system for victims of wrongful conviction.

"I felt so disappointed," says Mr. Crotzer, who served more than 24 years in a Florida prison until DNA evidence cleared him of rape and kidnapping charges. He's been working odd jobs that pay less than \$300 a week since he got out. "The bottom line is, I don't think I could ever put a price on freedom.... But they've got to put a system in place. [This issue] isn't going away."

The cases are typical results of the patchwork of compensation laws in the US, say experts. Last month, the 200th person was exonerated due to DNA evidence, but the majority of those released have gotten nothing but an apology – and sometimes not even that.

"We are exonerating people who did not commit crimes, spent two decades in prison or time on death row, and when they get out, there are fewer reentry services for these people than for individuals who actually committed crimes," says Barry Scheck, codirector of the Innocence Project at Yeshiva University's Benjamin N. Cardozo School of Law, which is dedicated to exonerating the wrongfully convicted. "It's a measure of decency."

As DNA exonerations become more plentiful – and more publicized – some states are moving on the compensation front. Of the 200 men who have been exonerated based on DNA evidence, about 45 percent have received some sort of compensation, according to the Innocence Project, with amounts that range from \$25,000 to \$12.2 million.

Twenty-one states, along with the federal government and the District of Columbia, now have standardized compensation laws on the books – offering exonerees amounts ranging from \$15,000 total to \$50,000 per year of imprisonment. Thirteen states have introduced bills this year to either create or improve compensation for the wrongfully convicted. Some of those bills, like the one that gave Mr. Tillman \$5 million, dealt only with individual prisoners, but other states are trying to standardize the compensation.

Crotzer – as much as he would have liked to see his own petition for compensation filled – favors the latter, as do most advocates of the wrongfully convicted.

"It's like I've got my hand out begging," he says of the process he went through. "It makes me feel bad."

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What states are offering

Here is a sampling of provisions in state legislation for prisoner compensation in cases of exoneration:

California: \$100 per day of incarceration

Montana: Educational aid for those exonerated through postconviction DNA testing

New Hampshire: Maximum of \$20,000

New Jersey: Whichever is greater – twice the amount of the claimant's income in the year prior to incarceration or \$20,000, for each year of incarceration

Tennessee: Maximum total of \$1 million

Source: The Innocence Project

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Texas, where 13 men have been exonerated in Dallas County alone, is considering a package of bills that would, among other things, raise the compensation amount from \$25,000 to \$50,000 per year of incarceration.

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Vermont – which hasn't yet had a prisoner exonerated by DNA evidence – has passed a comprehensive bill that would provide between \$30,000 and \$60,000 per year of incarceration as well as access to healthcare and reintegration services. It's currently awaiting the governor's signature.

That's a trend that advocates at the Innocence Project hope they see more of. They note that in addition to monetary compensation, most of the wrongfully convicted leave prison with few skills and desperately need access to education, mental-health services, medical care, and job training. Currently, most exonerees don't even have access to the same sort of services that parolees get, since they're not being paroled.

"In Florida, if you're a parolee they give you \$100 and a bus ticket," says Michael Olenick, the Tallahassee attorney who represented Crotzer pro bono. "Al Crotzer got no bus ticket, and no \$100." He also didn't get access to counseling, and he says he's struggled with some things since his release: He still wants to turn his light off at 11:47 every night, for instance, and he keeps everything in his room neat enough to pass a cell inspection.

Crotzer recently married a woman with two children and has worked a series of low-skill jobs ranging from street cleaning to janitorial duties. He's in the process of moving to Tallahassee, where he has an offer to work as a dishwasher. But he's hoping for a job at a nearby sheriff's office working with at-risk youth, and he's trying to stay sanguine about it all. "I kept my self-respect by not becoming the monster they wanted me to be," he says of his years in prison.

Neither Mr. Olenick nor Crotzer can be sure why the request for \$1.25 million failed, especially after the Florida House unanimously approved it. Senate leaders said they didn't have the money – a common reason that states cite in not providing compensation. In Crotzer's case, some also suggested that lawmakers didn't want to grant any more individual compensation bills, but instead wanted to pass a "global" bill that would address all cases. However, the three such bills that were introduced in past years didn't go anywhere.

Some believe Crotzer may also have been hurt by the fact that he was convicted of a beer store robbery when he was 18 – a fact that would have excluded him from compensation under one of the laws proposed in Florida.

Olenick says he'll keep fighting and will refile the claim for next year's session. "When you handle a case like Al's, he becomes locked in your heart," Olenick says. "Until he gets compensated, I'm not going to stop."

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