

**Klamath County Policy - ORS 137.218 (SB 819)
Request for Reconsideration of Conviction or Sentence**

KLAMATH COUNTY DA REVIEW PROCESS

STEP 1: INITIAL SCREENING

Upon receipt of the application, KCDA personnel will do an initial screening and review for completeness and eligibility as defined in Sections 2, 3, and 4 of the Eligibility and Application Policy. If the application is not complete, or the defendant is presumptively ineligible, a letter of denial will be sent. Applicants whose applications are rejected as incomplete may re-apply at any time with a completed application for consideration.

A tentative denial letter means that for the time being the SB 819 application is rejected. The applicant may apply again if they address the reason for the rejection as stated in the tentative denial. This may occur if required materials were omitted, or if an applicant has declined to authorize release of attorney files that the KCDA needs in order to have enough information to review. *A conviction-specific denial letter* means that the KCDA has rejected the SB 819 application with regard to a particular conviction in the application. The result of this type of rejection is that the KCDA will not consider any further SB 819 Application about that conviction. This type of denial happens if the defendant's conviction is one that does not fit the KCDA discretionary policy criteria. The defendant may still apply for other convictions, if they meet the specified criteria.

If the application is eligible for review, then a letter is sent to inform the defendant that the application has been screened and that the KCDA will conduct a complete review of the claims raised in the application. This means that the KCDA has screened the application and determined that they will accept the SB819 Application and complete a full review of the claims raised in the application. A letter expressing acceptance of review by the KCDA triggers the review process and does not yet mean the KCDA has made a final decision. After the review is over, the KCDA will write to tell the applicant whether they will agree to submit a joint petition for reconsideration. The District Attorney makes the final decision on whether the KCDA agrees to jointly petition with the defendant.

STEP 2: APPLICATION REVIEW

If accepted for review, a designated KCDA Deputy District Attorney will begin the review process to evaluate whether to recommend the filing of a joint petition for reconsideration, and if they do, what relief is appropriate. The review process includes investigating any claims and carefully considering all information provided in the application. Particular attention will be given to any case where newly identified or discovered evidence calls into question the integrity of the original conviction. The investigating law enforcement agency should be notified about the new evidence and any further request for investigation should go through the agency, absent extraordinary circumstances. Depending on the type of SB 819 Application, the review process may take a long time.

STEP 3: RECOMMENDATION TO DA

Once the review has ended, the designated DDA will make a recommendation to the Klamath County District Attorney regarding a denial or acceptance of the applicant's request for a Joint Petition for Reconsideration of a Conviction or Sentence.

STEP 4: KLAMATH COUNTY DISTRICT ATTORNEY FINAL DECISION

If the Klamath County District Attorney determines that a joint application may be warranted, the District Attorney shall request that the Victim Assistance Division contact the victim or victims of the crime. The District Attorney will meet personally with any victim who requests such a meeting to hear their position on the petition.

Taking into consideration all materials provided in the application, the recommendation of the DDA, and information from the victim(s), the Klamath County District Attorney will decide whether or not to agree to a Joint Petition for Reconsideration.

If the Klamath County District Attorney agrees to jointly petition, the KCDA will prepare a Joint Petition for Reconsideration together with the applicant and file the Petition with the Court. The Klamath County District Attorney (or a designated Deputy District Attorney) and the applicant will attend a court hearing where the Judge will determine whether to grant the joint petition for reconsideration.

If the KCDA declines, a final denial letter will be sent. A final denial letter means that the KCDA is rejecting the SB 819 Application and that the KCDA will not consider any new SB 819 application from the applicant for a period of at least 36 months and until circumstances have changed. Changed circumstances include a different theory of relief, new information, changes in the eligibility criteria set by the KCDA or the fulfillment of other criteria.