I. INTRODUCTION

When people are convicted of a crime in the United States, regardless of whether they serve prison or jail time, they face other socio-economic-political consequences other than those meted out by the penal system. Different areas of law, both state and federal, converge such that even after a person who was convicted completes a judge or jury’s “sentence”, that person continues to suffer ‘punishment-like’ repercussions, sometimes for life. Approximately 600,000 people are released from federal or state prisons each year.1 Of those, a large portion do not have homes to return to or readily available employment. This lack of opportunity coupled with the fact that people entangled in the criminal justice system are more likely to have been victimized as children,2 and overwhelmingly come from impoverished families and communities and they tend to be under-educated, they face a particularly stark lack of opportunity for life endeavors. These forces and lack of opportunities often lead to incarceration and re-incarceration. Once incarcerated, these dynamics are compounded by the psychic trauma of being imprisoned, despair from loss of family and community, substance abuse and a lack of resources to address the mental and emotional health needs of incarcerated people.3

There are health and disabling consequences as a result of incarceration. Once an individual is confined in a penal institution, he/she/they no longer has access to their normal healthcare providers. This can affect the continuity of care, which is often needed to treat long-term sickness, especially mental health illnesses.4 Additionally, the healthcare provided in carceral institutions can be under-resourced and thus, they do not maintain all the needed treatments and medicines required to serve incarcerated people.5 The food inside jails, prisons and detention centers is also not necessarily nutritious and may not follow the dietary needs of any given individual, which can also cause both short-term and long-term illnesses.

We see higher levels of depression and drug addiction in populations of incarcerated people.6 Some of it is not causal in that some incarcerated people suffered from these health issues before incarceration. However, isolation and confinement exacerbates these conditions and there are few resources to help treat people facing addiction while on the inside. And as a result of the under-resourced medical facilities and counseling services and lack of other healthy outlets, incarcerated people seek to self-medicate often through the use of illicit drugs.

Upon release, formerly incarcerated people often face stigma, continued trauma, dislocation and home insecurity, pressing economic needs without much opportunity for employment and may be battling addiction. Sometimes, post-traumatic stress puts a strain on familial relationships and makes it difficult to maintain a job or to stay sober further reducing access to
the support networks needed to successfully re-enter society.\textsuperscript{7} In many cases, joblessness, addiction and under-education set the stage for incarceration. Once released from prison or jail, people have even \textbf{less} opportunities for gainful employment because of blatant discrimination and as a result of long periods of joblessness due to incarceration, addiction problems which are more acute and generally speaking, very little education has been attained.\textsuperscript{8} Thus, the conditions which lead to incarceration have not changed and in fact, in some situations, have worsened. This creates a vicious cycle where substance abuse, joblessness and under-education can \textbf{both} cause and be the consequence of incarceration and recidivism.\textsuperscript{9}

To make matters worse, criminal convictions lead to further legal consequences beyond the immediate penalty. Some refer to these as “collateral consequences.” It is important for defendants to understand the totality of the potential impacts of a plea deal before agreeing to plead “guilty” or “no contest.” These collateral consequences run the gambit from affecting one’s voting rights to accessing federal (and state) benefits. Because the criminal justice system is structured to over-represent vulnerable groups in arrests, convictions and sentencing, thus it follows those same groups experience collateral consequences more than others.\textsuperscript{10} Poor people, people with mental disabilities and people of color overwhelmingly face these collateral consequences which have long-term impacts on one’s opportunities and trajectory in life. Different laws, hence different collateral consequences, apply to different institutions of incarceration which are often but not always related to the offense. Generally, detention centers and city or county jails have one set of consequences while state and federal prisons effect a different set of repercussions. Once released from incarceration, some restrictions may be lifted immediately even when the convicted person is still on probation depending on the jurisdiction. But it is more often the case that the restrictions are fairly strict and difficult to lift. For example, restitution (i.e. payment made by a convicted person to the victim for the harm caused by the criminal acts) is often an integral part of a convicted person’s sentencing. If a formerly incarcerated person does not complete the restitution portion of his/her/their sentence, then continued restrictions to accessing rights and benefits may apply. Otherwise, once an individual completes and fulfills all components of the sentencing, there may be some relief as to the collateral consequences of the conviction. What follows is a description of some of those collateral consequences (it is nearly impossible to be fully exhaustive) and some forms of relief available to people with criminal conviction records.

\section{II. \textbf{Collateral Consequences}}

\subsection{a. Voting}

The right to vote is provided for in the United States Constitution. Aside from prohibiting disenfranchisement on grounds such as age, gender, and race, the 15\textsuperscript{th}, 19\textsuperscript{th} & 27\textsuperscript{th} amendments of the U.S. Constitution, provide that eligibility for voting in federal elections are determined by state law.\textsuperscript{11} The power of the states to deny the right to vote because of participation in a crime
is expressly recognized in the Fourteenth Amendment according to the U.S. Supreme Court. Some constitutional scholars argue otherwise but the law stands today as a matter of case law. Therefore, the impact of a federal felony conviction upon an individual’s right to vote varies from state to state as it is determined by state law. Almost all states impose some type of restriction on the ability of convicted people to vote. Forty-eight states and D.C. (Maine and Vermont are the only exceptions) prohibit voting while the individual is incarcerated; those on parole cannot vote in thirty-six states; probationers cannot vote in thirty-one states and three states disenfranchise convicted people permanently. Sometimes, the right to vote is automatically restored after a particular event (such as release from incarceration or expiration of sentence) or after a certain period of time has passed, or may not available until the defendant pursues some administrative or judicial procedure. In some states, only a pardon will restore the right to vote.

According to the Sentencing Project, about 5.85 million Americans are disenfranchised as a result of criminal convictions in comparison to 1.17 million in 1976. Disenfranchisement policies have a disparate impact on communities of color because of disparities in the enforcement, prosecution and sentencing of crimes. Voting age-Black Americans are four times more likely to lose their voting rights in comparison to other voters, with one out of every 13 Black adults disenfranchised in the United States. Even though Black men represent 6% of the population, they make up 36% of the disenfranchised.

In order to understand the weight of these numbers, it is important to think about the historical context of the disenfranchisement of people of color. After the Civil War, many states instituted felony disenfranchisement policies. In fact, by 1869, 29 states had enacted such laws. These Jim Crow laws ran the gambit from exacting a poll tax onto Black communities knowing most voters would not be able to afford it to creating ‘literacy tests’ for voters while grandfathering voters who had already voted in a prior election (all of which were White). It has been argued that felony disenfranchisement has been used to continue to disempower communities of color, and while there is still debate as to the racial animus that may undergird conviction-related voting rights restrictions, the empirical data shows there is indeed a reduction in voting power levied by communities of color. Indeed, in a 2003 study, the investigators found that there was an explosion of felony disenfranchisement laws post-15th amendment which guaranteed Black people the right to vote. In states with higher Black populations, there was a higher likelihood of permanent disenfranchisement.

Because of the history of the racialized history voting restrictions based on criminal convictions, many argue for the eradication of felony disenfranchisement. For comparative context, felony disenfranchisement in the United States is an example where the US lags behind international human rights law. In 2005, the European Court of Human Rights held that disenfranchising incarcerated people violates the European Convention on Human Rights, which guarantees the right to free and fair elections. Almost half of European countries allow all incarcerated people to vote either by establishing voting booths inside prisons or offering absentee ballots. Taking it one step further, some countries, including Canada and South Africa, value the right to vote such that their Supreme Courts have ruled that any restriction of voting rights based on criminal
convictions is unconstitutional. The felony disenfranchisement laws in the United States today do not follow the international norms for developed countries.

<table>
<thead>
<tr>
<th>No restriction (2)</th>
<th>Prison (14)</th>
<th>Prison &amp; parole (4)</th>
<th>Prison, parole, &amp; probation (19)</th>
<th>Prison, parole, probation &amp; post-sentence – some or all (12)</th>
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<tbody>
<tr>
<td>Maine Vermont</td>
<td>District of Columbia</td>
<td>California</td>
<td>Alaska</td>
<td>Alabama&lt;sup&gt;a&lt;/sup&gt;</td>
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<td>Tennessee&lt;sup&gt;i&lt;/sup&gt;</td>
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<td>Virginia&lt;sup&gt;j&lt;/sup&gt;</td>
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<td>Pennsylvania</td>
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<sup>a</sup> State disenfranchises post-sentence for certain offenses.

<sup>b</sup> Arizona disenfranchises post-sentence for a second felony conviction.

<sup>c</sup> Delaware requires a five-year waiting period for certain offenses.

<sup>d</sup> State requires a five-year waiting period.

<sup>e</sup> Governor Tom Vilsack restored voting rights to individuals with former felony convictions via executive order in 2005. Governor Terry Branstad reversed this executive order in 2011.

<sup>f</sup> Nebraska reduced its indefinite ban on voting to a two-year waiting period in 2005.

<sup>g</sup> Nevada disenfranchises post-sentence except for first-time non-violent offenses.

<sup>h</sup> Tennessee disenfranchises those convicted of felonies since 1981, in addition to those convicted of select offenses prior to 1973.

<sup>i</sup> Virginia requires a five-year waiting period for violent offenses and some drug offenses. As of July 15, 2013, the state will no longer require a two-year waiting period for non-violent offenses.

### b. Office Holding

Federal Office- The United States Constitution does not prohibit formerly incarcerated people from holding elected federal office. However, various federal statutes do restrict the eligibility for holding office depending on the crime. For example, a conviction of renders the defendant
“incapable of holding any office under the United States.” Though sometimes, disqualification from holding public office is not required by law, a court can make it part of the sentencing at his/her/their own discretion. Similarly, when an individual is convicted of bribing a public official or accepting a bribe, a court can decide that public office is no longer available to the individual convicted.  

Below are further examples of disqualification for federal office or employment as a collateral consequence of criminal convictions:

§ removal from federal or District of Columbia office and ineligibility for employment by the United States or the District of Columbia for five years upon conviction under federal or state law of a felony for inciting, organizing, encouraging, or participating in, a riot or civil disorder or any offense committed in furtherance of, or while participating in, a riot or civil disorder (5 U.S.C. § 7313);  

§ removal from office, and ineligibility for any federal office, of a collecting or disbursing officer upon conviction of trading in public funds or property (18 U.S.C. § 1901);  

§ removal from office or employment of designated federal officers and employees upon conviction of unauthorized disclosure of certain confidential information relating to trade secrets or the financial profile of any person or business (18 U.S.C. § 1905);  

§ removal from office or employment of a federal officer or employee convicted of using federal money to finance lobbying a Member of Congress (18 U.S.C. § 1913);  

§ The Constitution, however, provides that the President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors. @ U.S. Const. art. II, ‘ 4, and further provides that a judgment in a case of impeachment may include removal from office and a disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States. @ U.S. Const. art. I, ‘ 3.  

§ forfeiture of office, and disqualification from any federal office, of a records custodian convicted of unlawfully concealing, removing, falsifying, or mutilating public documents (18 U.S.C. § 2071);  

§ ineligibility for federal employment for five years after conviction of an offense arising from advocating the overthrow by force or violence of the federal government or the government of a state or territory or conspiring to do so, or interfering with the morale or discipline of the United States armed forces (18 U.S.C. §§ 2385, 2387);  

§ ineligibility for appointment to or continued service on the National Indian Gaming Commission upon conviction of a felony or gaming offense (25 U.S.C. § 2704(b)(5)(A));  

§
§ dismissal from office or discharge from employment of an officer or employee of the United States upon conviction of unlawfully disclosing to any unauthorized person taxpayer return or return information (or disclosing the operations of a manufacturer or producer visited during the course of official duties) (26 U.S.C. §§ 7213(a)(1), (b)); 3
§ dismissal from office or discharge from employment of a federal officer or employee convicted of unauthorized inspection of a tax return (26 U.S.C. § 7213A); 4
§ dismissal from office or discharge from employment of any officer or employee of the United States acting in connection with any federal revenue law who is guilty of extortion, bribery, conspiracy to defraud the United States, making false entries, or another enumerated offense (26 U.S.C. § 7214(a)).

c. Jury Service

Federal — If one is convicted of a crime in either federal or state court, which is punishable by imprisonment for more than one year, that individual is ineligible to serve on a federal grand or petit jury if the convicted person’s “civil rights have not been restored.” 24 Even this exception is restrictive in that the only method currently available to those seeking a restoration of civil rights is a pardon and these are given on rare occasions.

d. Licensing

If a business involves activities regulated by a federal agency, then a federal license or permit is required to run that business. These activities include: agriculture, alcohol, aviation, firearms, fish & wildlife, mining & drilling, nuclear energy, radio & television broadcasting and transportation. A federal license may be lost upon conviction of a drug offense. 25 An individual who uses a federal license to facilitate a federal drug offense will forfeit the license altogether. 26 Depending on the nature of the crime and the federal license, a felony conviction may be an absolute bar to licensure. And if a felony conviction is not an absolute bar, it may still be a consideration the agency contemplates when reviewing an application for a license. Agencies examine convictions especially when related to the nature of the license and other seemingly irrelevant convictions in order to deter the prospective licensee’s character. 27

d. Employment

Generally, employers can decide not to hire an applicant with a criminal conviction because formerly incarcerated people are not a protected class. 28 However, and this is an important however, Title VII prohibits decisions “infected by stereotyped thinking” and protects minorities from disparate impact. Thus, if the decision to not hire someone based on a criminal conviction
is used as a pretext to deny someone employment based on race, color, religion, sex or national origin rather than specific qualifications related to the job description, then the applicant may have the basis for a lawsuit under Title VII. This is why the Equal Employment Opportunity Commission (EEOC) recommends that employers not ask about convictions on job applications and if they do, the inquiry should be as to job-related convictions. For example, imagine two young similarly-educated women apply to a tech company. They both have petty theft convictions from when they were still teenagers. However, before and since then, they have absolutely clean records. The only difference between the two is that one is Black and the other is White. If the Black applicant is denied employment based on her criminal record, and the White applicant moves forward, this could be a Title VII claim against that employer. If an applicant does raise a disparate impact challenge, the employer must demonstrate that the challenged practice is job related for the position in question and consistent with business necessity. An example of when a rejection is job-related and is a business necessity is when a convicted child molester is denied employment pertaining to children or if a job requires access to drugs, any drug-related conviction may be relevant to potential employment.

Depending on the crime, a felony conviction may result in either a disqualification for a certain period of time, or a permanent bar from specific types of employment including but not limited to:

- a federal defense contractor or sub-contractor
- labor organizations
- banks and other financial institutions
- insurance companies
- futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators, or floor brokers.
- A conviction arising from advocating the overthrow of the federal government or the government of a state results in a 5-year bar from any federal employment.

**e. Government Benefits**

**Food Stamps and TANF**

An individual convicted of a federal or state felony which involves the possession, use, or distribution of drugs is not eligible to receive food stamps or Temporary Assistance to Needy Families (TANF). Further, the amount payable to any family or household of which the convicted person is a member is reduced proportionately. This federal law creates a lifetime ban on the receipt of benefits even by those individuals who have completed their sentence, been gainfully employed (and later laid off), sought addiction treatment or secured a certificate of rehabilitation or another form of clemency. Studies have shown, denying formerly incarcerated people food, clothing, and shelter makes it much more difficult to reenter society and to support themselves as they leave the criminal justice system. Lack of these basic needs increases the
chances of recidivism as a return to criminal activity may be the only method to secure money. States have the power to legislate this lifetime ban differently by either limiting the time for which the convicted person is ineligible or determining no disqualification is necessary.

<table>
<thead>
<tr>
<th>State SNAP Options – Drug Felony Ban</th>
<th>State TANF Options – Drug Felony Ban</th>
</tr>
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<tbody>
<tr>
<td><strong>As of November 2011 Ban on Food Stamps for Individuals with Drug Felonies</strong></td>
<td><strong>As of November 2011 Ban on TANF for Individuals with Drug Felonies</strong></td>
</tr>
<tr>
<td>Applies to all drug felonies (in 9 states)</td>
<td>Applies to all drug felonies (in 10 states)</td>
</tr>
<tr>
<td>Alabama, Alaska, Georgia, Mississippi, Missouri, South Carolina, Texas, West Virginia, Wyoming</td>
<td>Alabama, Alaska, Georgia, Illinois, Mississippi, Nebraska, South Carolina, South Dakota, Texas, West Virginia</td>
</tr>
<tr>
<td>Applies only to individuals convicted of distribution, manufacture, or trafficking (does not apply to possession in 4 states)</td>
<td>Applies only to individuals convicted of distribution, manufacture, or trafficking (does not apply to possession in 3 states)</td>
</tr>
<tr>
<td>Arkansas, Florida, Nebraska, North Dakota*</td>
<td>Arkansas, Florida, North Dakota</td>
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<tr>
<td>Does not apply to individuals who have completed their sentence or are complying with the terms of their judgment, parole, or probation (<em>in court compliance in 8 states</em>)</td>
<td>Does not apply to individuals who have completed their sentence or are complying with the terms of their judgment, parole, or probation (<em>in court compliance in 9 states</em>)</td>
</tr>
<tr>
<td>Does not apply to individuals in treatment or who have completed</td>
<td>Does not apply to individuals in treatment or who have completed</td>
</tr>
<tr>
<td>California, Colorado, Connecticut,</td>
<td>California, Hawaii, Iowa, Kentucky</td>
</tr>
<tr>
<td>Treatment (in 9 states)</td>
<td>Hawaii, Illinois**, Kentucky, Maryland, Nevada, Utah</td>
</tr>
</tbody>
</table>

Information gathered from Legal Action Center.  

**Housing**

Anybody convicted of illegally manufacturing certain narcotics including methamphetamine in federally-assisted housing may be evicted and *permanently* barred from living in federally assisted housing and from receiving federal low-income housing assistance.  Any person who is convicted of a sex crime and is subsequently subject to a lifetime registration requirement is
permanently ineligible for federally assisted housing. 43

Retirement, insurance, disability, workers compensation

Upon conviction of certain national security crimes, the convicted person and his/her/their survivor and beneficiary may not receive an annuity or retirement pay from the United States or District of Columbia government and may be disqualified from receiving his/her/their collection of old-age, survivors, or disability insurance benefits, or health insurance for the aged and disabled. 44 Upon conviction of a crime, a person incarcerated for more than 30 days in a jail or penal institution may not receive old-age, survivors, or disability insurance payments for any month in which he/she/they was incarcerated.45 Persons convicted of fraud regarding federal workers compensation benefits are disqualified from receiving those benefits for any injury occurring on or before the conviction.46 Federal workers compensation benefits may not be paid to the convicted person (but may be paid to dependents) during a period of confinement resulting from the sentencing received after a felony conviction. 47

Financial Loans for Education48

Accessing the necessary benefit of financial aid for higher education becomes quite strained as a result of criminal convictions. While incarcerated in a federal or state institution, one is not eligible for Federal Pell Grants or federal student loans. Incarcerated people are eligible for Federal Supplemental Educational Opportunity Grants (FSEOG) and Federal Work Study BUT these programs are very difficult to secure because priority is given to students receiving Federal Pell Grants (again, for which incarcerated people are not eligible) and because the logistics required for completing Federal Work Study jobs may prove to be impossible while incarcerated. While incarcerated in an institution other than state or federal institutions, one is still not eligible for federal student loans but can qualify for a Federal Pell Grant. One is eligible for Federal Supplemental Educational Opportunity Grants (FSEOG) and Federal Work Study BUT not likely because the resources are incredibly limited and because the logistics required for completing Federal Work Study jobs may prove to be impossible while incarcerated. Upon notice of release from incarceration, one may apply for most forms of student aid so that the financial assistance will be in place by the time the student starts school outside of the institution. However, if the conviction was drug-based or subject to an involuntary civil commitment for a sexual offense, eligibility may be limited. (see appendix “A” and/or “B”) Eligibility is more restricted if any drug-related offenses occurred while receiving any federal student aid. Follow the questionnaire in the appendix in order to determine date of eligibility. Completing an approved drug rehabilitation program or passing two unannounced drug tests can help regain eligibility. If a conviction is set aside, overturned or otherwise rendered invalid, one becomes immediately eligible again.
f. Immigration

A non-citizen is ineligible for admission to the United States if he/she/they has been convicted of (or admits committing) a crime involving moral turpitude or commits multiple offenses for which the aggregate sentences to incarceration were five years or more. If the non-citizen: (1) was younger than 18 when the crime was committed; (2) committed only one crime for which the penalty was less than one year’s imprisonment and a sentence of six months or less was imposed; (3) committed the crime (and was released from incarceration) more than five years before applying for admission is not ineligible for admission. A non-citizen may be removed from the United States if she/he/they (1) was inadmissible at the time of entry; (2) is convicted of a crime involving moral turpitude committed within five years after the date of entry (or 10 years in the case of someone who has certain lawful permanent resident status) for which a sentence of one year or longer may be imposed; (3) two or more unique crimes of moral turpitude not related to the same event; (4) an aggravated felony; (5) a drug offense (with the exception of personal possession for one’s own use of 30 grams or less of marijuana); (6) a specified firearms offense; (7) a specified offense related to national security such as treason or espionage; (8) a specified immigration offense; (9) or a domestic violence offense.

In order to successfully secure citizenship or other forms of relief from removal, an applicant must show “good moral character.” An individual is precluded from establishing “good moral character” if he/she/they, during the required period of good behavior, (1) was incarcerated for 180 days or more as a result of a criminal conviction; (2) has at any time been convicted of an aggravated felony or: (3) has been convicted of any of the following offenses committed during the required period of good behavior: a crime involving moral turpitude (except crimes punishable by less than one year’s imprisonment for which a sentence of six months or less was imposed); two or more offenses for which the aggregate sentence was five years or more; a drug offense (except simple possession of a small amount of marijuana); or two or more gambling offenses. An aggravated felony is any of a long list of enumerated crimes, for which the prison sentence was completed within the last 15 years under federal or state law or foreign violations. The list includes crimes such as murder, rape, illicit trafficking in any controlled substance or in any firearm or destructive device, crimes relating to the laundering money, theft or burglary offenses for which the term of imprisonment was at least one year, fraud or deceit causing a loss of more than $10,000, tax evasion causing a loss of more than $10,000, certain offenses involving non-citizens, failure to appear to begin serving a sentence for an offense punishable by five or more years in prison, perjury or obstruction of justice for which the term of imprisonment is at least one year, and a crime of violence for which the term of imprisonment imposed is at least one year. In general, a non-citizen convicted of an aggravated felony is ineligible for most forms of relief from removal.

III. RELIEF FROM COLLATERAL CONSEQUENCES

a. General
Unfortunately, no general federal statutory procedure exists which can be used to restore all civil rights after conviction or expunge the judicial records of an adult federal criminal conviction. Because the loss of civil rights is a result of state law, those rights can only be restored by state action or by a presidential pardon. A presidential pardon restores civil rights, including voting rights, the right to serve on a jury and to hold public office, and generally removes any bars, restrictions and other disqualifications that were a result of the commission or conviction of the pardoned crime.54

Further, there are federal statutes which specifically address the impact of a presidential pardon on certain disqualifications. For example, if a non-citizen has been pardoned by the president, removal of that individual from the United States is no longer required.55, 56 A pardon relieves a convicted person of additional penalties regarding the receipt or calculation of old-age or disability insurance benefits that a court may impose upon conviction of particular crimes.56 Some veteran’s benefits forfeited as a result of a conviction for subversive activities are also restored by a presidential pardon.57 The right to serve on a federal jury is reinstated if the convicted person’s civil rights have been restored.58 However, this statute has generally been interpreted to require an actual affirmative act, such as a pardon by the President for federal convictions, before the right to serve on a federal jury will be reinstated.

b. Post-Conviction Assistance for People with Disabilities

Almost every formerly incarcerated person released from prison is sick and/or suffering from a physical, mental or emotional health issue. Because the Americans with Disabilities Act (ADA) broadly defines ‘disability,’ many formerly incarcerated people are eligible for ADA protection on some basis and for disability–based benefits. There are five main federal benefit programs which could greatly enhance the success of a formerly incarcerated person’s reentry into society: Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Medicaid, Medicare and Veterans compensation or pension funds. Since the rules and regulations for accessing each of these benefits programs are complex, these few paragraphs are insufficient information. Instead of detailed instruction, this section serves to encourage advocates to think about alternative agencies and programs for support for formerly incarcerated people. Most importantly, if an advocate is in the position to help someone with a pre-release application, this ensures the benefits will be in place as soon as that individual is released from incarceration making it much more probable to have a positive impact.

The Social Security Administration oversees two programs that provide cash benefits on a monthly basis to people with disabilities who meet a specific criteria. Those are Retirement, Survivors, and Disability Insurance (RSDI or Title II) and Supplemental Security Income (SSI). Disability insurance under RSDI is often referred to as Social Security Disability Insurance (SSDI). In most situations, the medical requirements and disability determination process is the same for both SSI and SSDI. In order to be eligible for SSDI or SSI, the applicant must meet specific non-medical requirements and must be found to have a physical or mental disability that has either already lasted or is expected to last for at least a year or will ultimately result in death. The disability must be so severe that the applicant is unable to work in any substantial gainful
activity. Because SSDI is a program paid for by taxes, the applicant is only eligible to the extent of his/her/their contributions or those made by a family member.\textsuperscript{59}

SSI is a means-tested benefit and is only available once the applicant has exhausted all other benefit programs. Cash benefits are provided on a monthly basis to aged, blind, or people with disabilities to have limited assets and income. There are some restrictions as to who may access these benefits even after fulfilling the criteria. For example, individuals who dispose of assets or income in order to be eligible for SSI will be barred from receiving the benefits for up to 36 months.

Anyone eligible for SSDI is generally approved for Medicare after a 2-year waiting period. If someone on Medicare is incarcerated, Medicare coverage is suspended and resumes again once SSDI payments resume. Incarcerated people can continue to pay premiums while incarcerated in order to remain enrolled. Otherwise, the formerly incarcerated person can re-enroll during General Enrollment (usually between January and March) but should expect higher premiums and some financial penalty.\textsuperscript{60}

To be eligible for Medicaid, an applicant must meet financial criteria with respect to that person’s income and assets and must be part of a group of people who are “categorically eligible” for benefits. Groups such as children, pregnant women, people with disabilities or the elderly all qualify so long as the applicant is a U.S. citizen or a qualifying immigrant and is a resident of the state where the application is filed.

Veterans who are incarcerated cannot access their benefits while incarcerated but retain their eligibility once released. Some pension or compensation benefits may still be paid while the veteran is incarcerated though in most cases, the amount paid would likely be reduced.

In order to determine what kind of benefits are available to your client as a result of a disability, contact one of the following agencies:

**The National Institute of Justice (NIJ)**

Washington, D.C. 20531 Telephone: 202-514-6205
URL: [http://www.ojp.usdoj.gov/nij](http://www.ojp.usdoj.gov/nij)

**The Centers for Disease Control and Prevention (CDC)**

1600 Clifton Road
Atlanta, GA 30333
Telephone: 404 639-3534 / 800 311-3435 URL: [http://www.cdc.gov](http://www.cdc.gov)

**The Social Security Administration**
c. California-Specific Post-Conviction Relief

California has three main types of post-conviction relief: dismissal, certificate of rehabilitation and a gubernatorial pardon. Each form of relief allows for a different set of rights and protections. The process for each is supposed to be pro-se friendly but as is often the case, the legal system is complex enough where professional assistance is best. These are the steps to take to help your client secure post-conviction relief in California.

Step 1- Find out and confirm the details of your client's criminal record.

The details of the record will determine eligibility for different types of relief. Sometimes, your client will have more than one conviction. It is necessary to collect the details listed below for each conviction.

1. What is the case number — sometimes called “docket number”?
2. What was the date of conviction (the date of the plea, verdict, or finding of guilt)?
3. What is the code name and section number of the violation for which your client was convicted?
4. Was there an actual verdict or did your client enter a plea? If there was a plea entered, was it “guilty” or “no contest” (also called “nolo contendere”)?
5. Was your client ordered to serve any time on probation (either formal or informal probation)? If so, for how long?
6. Was your client ordered to pay any fines, restitution, or reimbursement?
7. If your client was sentenced to state prison, which one?
8. If your client was sentenced to state prison, on what date was he/she/they released?
9. If your client was released on parole, on what date did parole end?

Step 2- Retain a copy of the criminal record

It is best to retrieve the actual criminal record for numerous reasons. First, your client may not know everything that is part of her/his/their criminal record. Second, criminal records often
have at least some of the pertinent information which will be required to fill out the necessary petitions. Third, there may be mistakes on the criminal record which need to be addressed. Criminal records can be secured from a variety of sources:

1. Any court papers received at the time of conviction.
2. The attorney who represented your client for each conviction, parole officer, probation officer, or contacts within the courts or law enforcement community.
3. The superior court where your client was convicted will only have information for convictions from that county and not other counties. Be sure to contact each county in which your client may have a record.
4. The California State Dept. of Justice, Criminal Record Review Unit. Your client’s criminal record information for the entire state of California is available here. You can contact them by telephone at: 916-227-3400. There is a fee, but your client may qualify for a fee waiver. They must provide written proof of their income. It may take several weeks for the record to arrive in the mail.

Step 3- Determine what options are available

If your client was **convicted of a misdemeanor and is still on probation**, you can request an early release from probation and then subsequently file a petition to have the conviction dismissed. In order to request early release, file a petition under Penal Code section 1203.3, and then file a **Pen. Code, § 1203.4** petition for dismissal.

If your client was **convicted of a misdemeanor and was not given probation OR successfully completed probation**, go directly to the dismissal process by filing a **Pen. Code, § 1203.4** petition.

If your client was **convicted of a felony and is still on probation**, then you should request an early release from probation and file a petition to reduce the felony conviction to a misdemeanor. Once it is reduced, file for a dismissal. File a **Pen. Code, § 1203.3** petition to have probation terminated early. File a **Pen. Code, § 17(b)** petition to get the felony reduced, and a **Pen. Code, § 1203.4** petition for dismissal.

If your client was **convicted of a felony and served any county jail time and has completed probation**, you can file a petition to have the conviction reduced to a misdemeanor and then file for a dismissal. File a **Pen. Code, § 17(b)** petition to get a felony reduced, and a **Pen. Code, § 1203.4** petition for dismissal.

If your client was **convicted of a felony, served time in county jail and was never given any probation**, then you can file a petition to have the felony reduced to a misdemeanor and then file a petition to get the conviction dismissed. File a **Pen. Code, § 17(b)** petition to get a felony reduced, and a **Pen. Code, § 1203.4a** petition for dismissal.

If your client was **convicted of a felony, sentenced to state prison and placed under the**
jurisdiction of the Department of Corrections and Rehabilitation, then you can file for a certificate of rehabilitation and subsequently a pardon. Your client is not eligible for a dismissal under Penal Code section 1203.4 or 1203.4a.

**Step 4- Determine whether your client is eligible for a dismissal**

If your client was convicted of an infraction, a misdemeanor, or a felony and was not sentenced to state prison or put under the jurisdiction of the Department of Corrections and Rehabilitation, and your client was given county jail time, probation, a fine or any combination thereof, then your client can petition for a “dismissal.” If they are successful in petitioning for a dismissal, the court may withdraw your client’s ‘guilty’ or ‘no contest’ (‘nolo contendere’) plea, or a guilty verdict if the case went to trial, and enter a ‘not guilty’ plea. Then the court will dismiss the conviction. Upon dismissal, your client will no longer be considered convicted of that particular offense and the record will show ‘dismissal’ instead of conviction.

Your client is eligible for probation and the court **will** dismiss the conviction if:

- Your client received probation for that conviction and;
- Successfully completed the probation period or secured early release;
- Paid all related fines, restitution, and reimbursements ordered by the court as part of the sentence;
- Is not currently serving any other sentence and is not on probation and;
- Has not been charged with a new offense.

**OR** if:

- Your client never received probation and;
- The conviction was an infraction or a misdemeanor;
- At least one year has passed since the date of conviction;
- Your client fully complied with the court’s sentence;
- Your client is not currently serving another sentence and;
- Your client has not been charged with another crime.

Your client is eligible for a dismissal subject to the court’s **discretion** to grant that dismissal if:

- Your client received probation but was not granted early release OR did not fulfill all the conditions of probation OR was convicted of any offense listed in Vehicle Code section 12810(a) to (e) BUT:
  - Has paid all the fines, restitution, and reimbursements ordered by the court as part of the sentence; AND
  - Is not currently charged with, on probation for, or serving a sentence for any other offense.
Convictions not eligible for dismissal

Some convictions are not eligible for dismissal. However, if your client has multiple convictions, and some are eligible for dismissal and others are not, it is still worth it to pursue those that are eligible because a reduction in convictions is still better than none. If your client was convicted of any of the following offenses, dismissal is not possible under Penal Code section 1203.4a:

- Any misdemeanor within the provisions of Vehicle Code section 42002.1;
- Any infraction within the provisions of Vehicle Code section 42001;
- Any violation of Penal Code section 286(c), 288, 288.5, 288a(c), or 289(j); or
- A felony under Penal Code section 261.5(d).

Diversion

If your client successfully completes all of the diversion program requirements, the record should automatically reflect a dismissal without petitioning the court separately. It is always best to check your client’s criminal record to ensure this process has been followed.

Juvenile records

If your client was a juvenile at the time of conviction, there is a different set of rules. Juvenile records appear on a person’s criminal record. As of one’s 18th birthday, individuals are eligible to petition to have juvenile records sealed. Once records are sealed, no one can gain access to them and they will be completely destroyed 5 years from the date of sealing.

Juvenile records are not automatically sealed upon one’s 18th birthday. Individuals must petition the juvenile court to have them sealed. This can be done by filling out a form and filing it with the juvenile court in the county of conviction (each county has its own set of forms). Often times, there will be special filing requirements, such as additional photocopies or the need to serve copies of the petition on a government agency so strict adherence to the process is required. Usually, there are no charges or fees for sealing a juvenile record.

If your client graduated from the Department of Corrections and Rehabilitation, Division of Juvenile Justice, his/her/their juvenile convictions will have been dismissed as part of the graduation process. If your client does not petition to have his/her/their juvenile records sealed and destroyed, the convictions will remain on the individual’s record until his/her/their 38th birthday; then they will be destroyed.

What is the impact of a dismissal?

Some people interchangeably use the word “expungement” with “dismissal.” However, though they function similarly, they are not the same. Most understand expungement to mean that it is
as if the conviction never happened. It is akin to sealing a record or erasing it. A dismissal is less restrictive than that though it does result in major benefits. Below are the effects of a Penal Code 1203.4 dismissal.

1) **Applying for employment in the private sector:** When applying for a job in the private sector, convictions that have been dismissed generally need not be disclosed. Under most circumstances, private employers cannot even ask about any convictions dismissed under Penal Code section 1203.4. However, it is still a prudent idea to read Penal Code section 1203.4, or California Code of Regulations section 7287.4(d), or to talk to the **public defender in the county of conviction** if there are questions about a formerly incarcerated person’s rights and obligations to disclose past convictions when applying for a job.

2) **Applying for government employment or a government license:** When applying for government employment or a government license, questions inquiring as to the criminal conviction history of the applicant must be answered with “Yes - conviction dismissed.” With the exception of law enforcement agencies and concessionaire licensing boards, government employers and licensing agencies will treat the applicant the same as if he/she/they had never been convicted (provided ALL convictions have been dismissed).

3) A dismissal does **not** automatically reinstate the right to possess firearms.

4) Dismissed convictions can still be used as ‘priors’ to increase punishment in future criminal cases.

5) Dismissed convictions can still affect driving privileges.

6) A dismissal does not relieve someone convicted of a sex offense of the duty to register. A separate motion must be made to the court in order to be relieved of this. Also, a convicted person’s status as someone convicted of a sex offense will remain public information under Meghan’s law.

7) If the conviction resulted in a prohibition in holding public office, a dismissal does not overcome that prohibition and the convicted person still cannot hold public office.

**Step 5- Filing the petition to the court**

Only one dismissal can be petitioned for per form, however, they can all be filed at the same time. If you are filing a petition for reducing a felony OR a petition for early release from probation OR a dismissal, you will need to mail (or deliver in person) your filing materials to the clerk of the superior court for the county where your client was convicted. Be sure to include any supportive materials such as letters of support, school diplomas or transcripts, and if applying for early release from probation, a letter to the judge explaining why your client should be released from probation early should be included. At the time you file your papers, the clerk will set a hearing date. When filing a petition for reducing a felony to a misdemeanor OR a petition for early release from probation OR for a dismissal, you will need to call the clerk of the superior court for the county of conviction and ask for the following information:

1) Copies of their form (enough for the number of convictions in that county) If you are
filing a petition for dismissal under Penal Code sections 1203.4 and 1203.4a, you can use this form Form CR-180.

2) Find out how many copies of the petition you need to submit.

3) Ask if their county rules of court require the service of copies of the petition on the district attorney or probation department.

4) Ask what the correct mailing address is for filing by mail as this information is not always updated online.

If required in the county of conviction, be sure to serve the district attorney or probation department. Your client will be required to attend the hearing, although for Penal Code section 1203.4 and section 1203.4a petitions your client may not have to appear. If your client is required to attend the hearing, they must attend. Advise your client to be on time and dress conservatively. If your petition is granted, make sure your client places the order in a safe place for recordkeeping.

The court cannot charge a fee to file your petition. However this is a bit misleading because the court may order your client to reimburse the court, city, and county up to $150 each after the court decides the petition, whether or not the petition was granted. But the court will take into consideration your client’s ability to pay, in whole or in part, without undue hardship.

If your petition is denied

If the petition is not open to the court’s discretion, a mistake was made somewhere on the petition. After receiving the court’s order denying the dismissal, you or your client can either call or visit the clerk at the courthouse to inquire as to why the petition was denied and determine how to fix the problem and re-file. If the petition was a discretionary petition, you should still contact the clerk to see what intel you might gather as to the denial. However, recognize the petition may not have been strong enough and you might need to gather more letters of support or help your client paint a more positive picture as to his/hers/their rehabilitation. Once you’ve collected more support, re-file.

Certificate of Rehabilitation or Gubernatorial Pardon

If your client was sentenced to state prison or sentenced under the authority of the Department of Corrections and Rehabilitation, he/she/they are not eligible for a dismissal under Penal Code section 1203.4 or 1203.4a. However, your client may be eligible for a certificate of rehabilitation and pardon. For more detailed eligibility and application requirements, contact:

The Board of Parole Hearings
Post Office Box 4036
Sacramento, CA 95812-4036

Certificate of Rehabilitation
A Certificate of Rehabilitation is an official court order stating that a person convicted of a crime is now rehabilitated. Typically, any person convicted of a felony may apply for a certificate in the county in which she/he/they live so long as the applicant still resides in California and meets the legal requirements of demonstrated rehabilitation. There are a different set of rules that apply to individuals convicted of sex offenses.

The application for a Certificate of Rehabilitation is usually provided by the court clerk, probation department, or public defender’s office. Once a petition for the certificate is filed, the court may investigate the applicant via the office of the district attorney and will schedule a hearing.

If the court issues a Certificate of Rehabilitation, the Governor’s Office receives the certificate where it automatically becomes an application for a pardon. However, a pardon is still not guaranteed.

A certificate of rehabilitation: relieves some sex offenders from registration requirements; improves a formerly incarcerated person’s potential for licensing consideration by a State board; serves as an official document to show a formerly incarcerated person’s rehabilitation which could enhance employment possibilities; serves as an automatic application for a gubernatorial pardon. However, it does not: erase the felony conviction or seal the criminal record; prevent the offense from serving as a prior conviction if the person is later convicted of a new offense; allow a formerly incarcerated person to answer on employment applications that he/she/they has no record of conviction; give a formerly incarcerated person the right to vote though this right is automatically restored after discharge from parole; and does not restore the right to own or possess firearms.

Pardon

The direct pardon procedure is available to people who are not eligible for a Certificate of Rehabilitation or those who have already successfully secured said certificate. People who were convicted of a crime in California and now reside outside the state or those convicted of certain sex offenses are the most common applicants of a pardon.

Applicants for a gubernatorial pardon may access the application either by using the Governor’s website at www.gov.ca.gov, or by requesting an application in writing at the following address:

Governor’s Office State Capitol
Attention: Legal Affairs
Sacramento, CA 95814

The applicant will first complete the “Application for Executive Clemency.” Then the applicant will send the “Notice of Intent to Apply for Executive Clemency” to the District Attorney in each of the counties in which the applicant was convicted of a crime so that each District Attorney is put on notice. The District Attorney will then acknowledge receipt of the “Notice of Intent” by
returning the notice to the Governor’s Office. The last step is for the applicant to return the completed application to the Governor’s Office at the address listed above.

A pardon is at the sole discretion of the Governor. Once a Certificate of Rehabilitation or a completed direct pardon application is received by the Governor’s Office, the Office typically seeks recommendations from the Board of Parole Hearings (Board). The Board may conduct some background research and it might contact the District Attorney, judge, investigating law enforcement agency, and anyone else who may have relevant information on the applicant. If there is more than one felony conviction, the Governor may not pardon the applicant without a positive recommendation from the California Supreme Court.

A Governor’s pardon: allows a formerly incarcerated person to serve on a jury trial; restores the right to own or possess firearms, within certain federal parameters, to specified formerly incarcerated people who have obtained a certificate of rehabilitation and have been granted a full and unconditional pardon, unless the conviction was for a felony involving the use of a dangerous weapon; allows a formerly incarcerated person to be considered for appointment as a county probation officer or a state parole agent, but not to any other peace officer positions; allows people who were convicted of sex offenses who were still required to register after obtaining a Certificate of Rehabilitation to be relieved of their duty to register if granted a full and unconditional pardon. However, it does not: seal or erase the record of conviction; prevent the offense from serving as a prior conviction if the person is later convicted of a new offense; allow a pardoned person to answer on employment applications that he/she has no record of conviction; restore ability to own a firearm to felons convicted of any offense involving the use of a dangerous weapon; and does not pardon convictions from another state or federal convictions.

IV. Annotated Bibliography


**ABSTRACT**: Tens of thousands of federal, state, and local laws, regulations, and ordinances restrict the civil rights, employment, eligibility for public benefits, residence and other aspects of the status of convicted persons. Accordingly, for many, the most serious and long-lasting effects of conviction flow from the status of being convicted and the concomitant lifetime subjection to collateral consequences. However, courts generally treat collateral consequences as non-punitive civil regulations, and therefore not subject to constitutional limitations on criminal punishment. Most civil death statutes
were repealed in the Twentieth Century, but its equivalent has been reproduced through systematic collateral consequences. Instead of losing rights immediately, convicted people now hold their rights at sufferance, subject to limitation and restriction at the discretion of the government. The new civil death, loss of equal legal status and susceptibility to a network of collateral consequences, should be understood as constitutional punishment. In the era of the regulatory state, collateral consequences may now be more significant than was civil death in past decades. The actions of judges, defense attorneys, and prosecutors should attend to what is really at stake in criminal prosecutions.


ABSTRACT: This study collects and describes the collateral consequences of a criminal conviction that arise under federal statutes and regulations. A joint project of the ABA Commission on Effective Criminal Sanctions (Commission) and the Public Defender Service for the District of Columbia (PDS), it is an outgrowth of both entities’ work on the effect of a criminal record on the availability of a wide range of benefits and opportunities, which in turn determines a person’s likely ability to rebuild his or her life after a criminal conviction. While the study is first and foremost a compilation, and its presentation primarily descriptive rather than analytical, we hope that it will serve as a useful tool for criminal justice practitioners (including defenders, judges, and prosecutors); for persons seeking information about the legal rights and responsibilities of people who have a conviction record; and for advocates, legislators, and policymakers in determining which collateral consequences are reasonable and appropriate responses to public safety concerns, and which are not and what can or should be done to avoid or mitigate them.


ABSTRACT: During 2012, legislation was championed by Republican and Democratic state lawmakers to scale back the collateral consequences of convictions. This paper documents the important reforms enacted and introduced throughout the country during the 2012 legislative session. This paper is organized into the following policy categories: (1) “ban the box”; (2) employer negligent hiring protections; (3) expungement and sealing; (4) federal public benefits opt-out legislation; (5) felony enfranchisement; and (6) Uniform Collateral Consequences of Conviction Act legislation.

ABSTRACT: The Collateral Consequences Resource Center has launched a new website to raise awareness and promote discussion on the laws and policies that create barriers to reentry. The site will provide news and commentary about developments in courts and legislatures, practice and advocacy resources, and advice about how to restore rights and status in various jurisdictions. The Center aims to reach a broad audience of lawyers and other criminal justice practitioners, scholars and researchers, policymakers and legislators, as well as those most directly affected by the consequences of conviction.

http://books.google.com/books?hl=en&lr=&id=AE1BT6LRgPMC&oi=fnd&pg=PA1&dq=impact+of+criminal+record+on+housing+benefits&ots=0zQDQXI6ca&sig=bIHzGDQXSIcXAKOL6WBMqvqEL0#v=onepage&q=impact%20of%20criminal%20record%20on%20housing%20benefits&f=false.


ABSTRACT: Studies of the collateral consequences of felony conviction have generally focused on single restrictions such as disenfranchisement or disqualification for welfare assistance. Although these studies have provided a wealth of valuable information, such an approach only provides a partial picture of the broader social context in which collateral sanctions operate and their implications for social stratification. Even after felons complete their sentences, they often find whole classes of key privileges revoked and opportunities blocked. Furthermore, because they are most likely to experience criminal justice sanctions, Black males are at far greater risk of also facing the social disadvantages that accompany criminal punishment. This article argues that collateral consequence provisions play a role in maintaining and exacerbating racial inequality.


ABSTRACT: The Commission intends this document for use by employers considering the use of criminal records in their selection and retention processes; by individuals who suspect that they have been denied jobs or promotions, or have been discharged because of their criminal records; and by EEOC staff who are investigating discrimination charges involving the use of criminal records in employment decisions

ABSTRACT: Accordingly, the Office of Immigration Litigation (“OIL”) has prepared this monograph to provide a basic overview of the immigration consequences of a guilty plea. We emphasize that this monograph does not attempt to provide an interpretation of the scope and applicability of Padilla. Nor does it provide in-depth analyses of issues that arise under the Immigration and Nationality Act (“INA”) and its implementing regulations, or a summary of immigration case law. Indeed, administrative and judicial precedents on immigration matters are far from uniform, and determining what precedent to apply might be difficult because the removal proceeding may not be completed in the same jurisdiction as the criminal proceeding. We have focused our efforts on presenting a brief, cogent, and clear introduction that summarizes and cites the relevant statutory provisions bearing on those consequences.


ABSTRACT: This article will explore the consequences of a felony conviction in California. Specifically, we will discuss the effects of a felony on Employment, Professional Licenses, voting, serving on jury, serving in the armed forces, holding public office, possessing a firearm, collection of DNA, federal benefits, travel restrictions, immigration, lawsuits by your victim, warrantless parole searches, registration as a sex offender under Meghan’s law, special restrictions related to drug convictions, California’s three-strikes law, and pension benefits for California employees and officials.


ABSTRACT: This article looks at the collateral consequences that effect those whom are convicted of crimes. LaFollette then evaluates views, consequences, and problems with collateral consequences.


ABSTRACT: This report is intended to update and expand our previous work on the scope and distribution of felon disenfranchisement in the United States (see Uggen and Manza 2002; Manza and Uggen 2006). The numbers presented here represent our best assessment of the state of felon disenfranchisement as of December 31, 2010, the most recent year for which complete data are available. Our goal is to provide statistics that will help contextualize and anticipate the
potential effects of felon disenfranchisement on elections in November 2012


ABSTRACT: This report contains an introduction with background information on parents with criminal records, and chapters on employment, public benefits, housing, child welfare, student loans, and immigration. These chapters feature stories of ex-offenders who have confronted these barriers, illustrating the inequities of these collateral consequences.


ABSTRACT: Convicted felons face both legal and informal barriers to becoming productive citizens at work, responsible citizens in family life, and active citizens in their communities. As criminal punishment has increased in the United States, collateral sanctions such as voting restrictions have taken on new meaning. The authors place such restrictions in comparative context and consider their effects on civil liberties, democratic institutions, and civic life more generally. Based on demographic life tables, the authors estimate that approximately 4 million former prisoners and 11.7 million former felons live and work among us every day. The authors describe historical changes in these groups; their effects on social institutions; and the extent to which they constitute a caste, class, or status group within American society. The authors conclude by discussing how reintegrative criminal justice practices might strengthen democracy while preserving, and perhaps enhancing, public safety.


ABSTRACT: The author of this book focuses on the ways in which individuals with criminal records are excluded from public housing. The author addresses policies and provides recommendations to the parties involved with public housing.


ABSTRACT: The federal “Second Chance Act of 2005” calls for expanding reentry services for people leaving prison, yet existing policies restrict access to needed services for those with
criminal records. We examined the interaction between individual-level characteristics and policy-level restrictions related to criminal conviction, and the likely effects on access to resources upon reentry, using a sample of prisoners with Axis I mental disorders (n=3073). We identified multiple challenges related to convictions, including restricted access to housing, public assistance, and other resources. Invisible punishments embedded within modification of federal and state policies, the ability of reentry services to foster behavioral health and community reintegration is limited.


ABSTRACT: The article addresses the effects the welfare reform act, particularly section 115, has on women who have been convicted of drug offenses. This section causes those with drug offenses to have a lifetime ban on receiving cash assistance and food stamps.


ABSTRACT: With over 2 million individuals currently incarcerated, and over half a million prisoners released each year, the large and growing number of men being processed through the criminal justice system raises important questions about the consequences of this massive institutional intervention. This article focuses on the consequences of incarceration for the employment outcomes of black and white job seekers. The present study adopts an experimental audit approach—in which matched pairs of individuals applied for real entry-level jobs—to formally test the degree to which a criminal record affects subsequent employment opportunities. The findings of this study reveal an important, and much underrecognized, mechanism of stratification. A criminal record presents a major barrier to employment, with important implications for racial disparities.


ABSTRACT: Federal website that states the limitations incarcerated individuals may have, when trying to gain federal student aid


ABSTRACT: This report examines the barriers that individuals’ with a criminal record face when applying for college. This report also provides recommendations for addressing these barriers.

ABSTRACT: This paper discusses the state of our knowledge about the intersection of higher education and criminal justice involvement. Public Policy and federal student aid eligibility for people with criminal conviction records are the subjects of the fourth section. The fifth section describes the current landscape of college and university admissions policies regarding people with criminal conviction records, and the concluding section argues that all currently available evidence points to the benefits of opening the higher education door wide for people with prior criminal justice involvement.

V. RESOURCES

ACLU National Prison Project
733 15th St, NW
Suite 260
Washington, D.C. 20005
(tel) 202-393-4930
(fax) 202-393-4931
www.aclu.org
The ACLU National Prison Project offers some general legal advice but is primarily involved in large class action lawsuits that challenge conditions of confinement. They do not represent individuals.

California Indian Legal Services
510 16th Street, Fourth Floor
Oakland, CA 94612
(tel) 510-835-0284
(fax) 510-835-8045
www.calindian.org
This organization provides legal representation to low-income Native Americans. They do not usually handle criminal cases.

California Innocence Project
225 Cedar St
San Diego CA 92101
Tel: (800) 255-4252 (619) 239-0391
www.innocenceproject.com
CIP is a law school program operating out of the Institute for Criminal Defense Advocacy of California Western School of Law.

Students work with practicing criminal defense lawyers to seek the release of wrongfully
convicted prisoners (California only). The law students assist in the investigation of cases where there is strong evidence of innocence, write briefs in those cases, and advocate in all appropriate forums for the release of the project's clients. Request an Intake Questionnaire by writing to the above address.

Criteria:
- Your conviction must have taken place in Southern California.
- You must be able to claim actual innocence of the crime you were convicted for.
- You have to have been sentenced for at least four years or longer.
- You must have filed at least one appeal.

Centurion Ministries, Inc.
221 Witherspoon St
Princeton NJ 08542-3215
www.centurionministries.org

Centurion Ministries (CM) is a nonprofit organization with headquarters in Princeton, New Jersey. CM has a national network of attorneys and forensic experts who ably assist us in our work on behalf of the convicted innocent throughout the U.S. and Canada. The primary mission of CM is to vindicate and free from prison those who are completely innocent of the crimes for which they have been unjustly convicted and imprisoned for life or death. They also assist their clients, once they are freed, with reintegration into society on a self-reliant basis. CM has a very narrow criteria for the types of cases they will consider reviewing.

They only consider murder or rape cases within the U.S. as well as Canada that carry a life or death sentence. We do NOT consider self-defense or accidental death cases. They will only consider a rape case if there is the possibility of using DNA testing to clear the convicted person. They do NOT consider child sex cases unless the case has physical evidence that could be scientifically tested to prove innocence. You must be absolutely 100% innocent of the crime and have had absolutely no involvement whatsoever with the crime. You must be indigent and have largely exhausted your appeals.

They are NOT lawyers and, therefore, we do NOT offer legal assistance to those who petition us for help. We CANNOT make referrals to attorneys. If the inmate does fit ALL of our criteria, their initial letter to us should be brief, outlining the facts of the crime, and what led to their arrest for the crime. Inmates should NOT send briefs or transcripts of other materials! We just want to hear the facts in the inmate's own words. We in turn will send them a letter that outlines exactly what information we want, and what they can expect from us in the way of assistance.

www.PrisonDharmaNetwork.org

Disability Rights Education Defense Fund
2212 - 6th Street
Berkeley, CA 94710
(tel) 510-644-2555
(fax) 510-841-8645
www.dredf.org
dredf@dredf.org

This organization provides legal and other types of referrals to prisoners with disability issues. They do not provide individual representation.

**Freedom Foundation**
P.O. Box 487
San Quentin, CA 94964
This legal agency assists in carefully selected cases where prisoners claim to be falsely accused or convicted. They enter the case after the appellate process has been completed. The screening process takes up to a year and only a few cases are selected each year.

**Grassroots Investigation Project (GRIP)**
Quixote Center
PO Box 5206
Hyattsville MD 20722
Tel: (301) 699-0042
E-mail: claudia@celldoor.com
Website: www.lairdcarlson.com/grip

The mission of The Grassroots Investigation Project is to empower family members of death row inmates and anti-death penalty activists to create partnerships with lawyers, journalists, and academicians for the purpose of conducting low-cost investigations of death penalty cases that may reveal innocence and help to bring about a death penalty moratorium. Inmates may write for further information.

**Innocence Project**
Benjamin N. Cardozo School of Law
55 5th Ave 11th Floor
New York, NY 10003
E-mail: info@innocenceproject.org
Website: www.innocenceproject.org

The Innocence Project at the Benjamin N. Cardozo School of Law was set up as and remains a nonprofit legal clinic. This Project only handles cases where post-conviction DNA testing of evidence can yield conclusive proof of innocence. As a clinic, students handle the case work while supervised by a team of attorneys and clinic staff. Most of our clients are poor, forgotten, and have used up all of their legal avenues for relief. The hope they all have is that biological evidence from their cases still exists and can be subjected to DNA testing. All Innocence Project clients go through an extensive screening process to determine whether or not DNA testing of evidence could prove their claims of innocence.

**Innocence Project Northwest**
These legal aid organizations provide pro bono representation to prisoners who are wrongly convicted of serious crimes, who no longer have a right to an attorney, and where there is an actual claim of innocence.

**Legal Services for Prisoners with Children**
1540 Market St., Suite 490
San Francisco, CA 94102
(tel) 415-255-7036
(fax) 415-552-3150
info@prisonerswithchildren.org
www.prisonerswithchildren.org

Legal Services for Prisoners with Children is a non-profit law office that offers general legal advice around prisoners' parental rights, distributes *The Incarcerated Parents Manual* free to prisoners in California, and acts as a referral agency.

**Lewisburg Prison Project**
PO Box 128
Lewisburg PA 17837
Tel: (570) 523-1104
E-mail: prisonproject@chilitech.net
www.eg.bucknell.edu/~mligare/LPP.html

Lewisburg Prison Project educates prisoners as to their civil rights and distributes a variety of legal bulletins and publications, written in non-technical laymen's terms, at a minimal cost. We accept stamps and self addressed stamped envelopes as payment. Write for a free list of materials offered.

**National Clearinghouse for the Defense of Battered Women**
125 South 9th Street, Suite 302
Philadelphia, PA 19107
(tel) 215-351-0010
(fax) 215-351-0779

This organization provides resources and other support to battered women who have been charged or convicted of crimes resulting from their abuse. While the National Clearinghouse does not provide direct legal representation, it offers technical assistance to defense teams working on behalf of battered women defendants.
The National Death Row Assistance Network of CURE (NDRAN)
Claudia Whitman
6 Tolman Rd
Peaks Island ME 04108
Tel: (888) 255-6196  E-mail: claudia@celldoor.com
Website: www.ndran.org
The National Death Row Assistance Network of CURE is a new organization formed to help death row prisoners across the United States gain access to legal, financial, and community support and to assist individual prisoner's efforts to act as self-advocates.

National Lawyers Guild
143 Madison Ave 4th Floor
New York NY 10016
Tel: (212) 679-5100
Website: www.nlg.org
The National Lawyers Guild is an association dedicated to the need for basic change in the structure of our political and economic system. "We provide self-help law kits free of charge to assist inmates in representing themselves and their own cases or in assisting others." The self-help kits are written in an easy to use language that tells you how to file civil complaints, how to deal with grievances, and most other legal matters that you would encounter in the course of being imprisoned.

National Legal Aid & Defender Association
1140 Connecticut Ave. NW, Suite 900
Washington, DC 20036
(tel) 202-452-0620
Info@nlada.org
www.nlada.org
Serves the broad equal justice community.

Penal Law Project
W 2nd & Cherry Streets
Chico, CA 95929
This organization provides legal referrals and information packets on the following topics: Habeas Corpus, the 602 appeals process, Three Strikes, civil rights action, expunging a criminal record, and parolee rights.

Prisoner's Rights Union
P.O. Box 1019
Sacramento, CA 94812
This group publishes over 40 self-help legal manuals available at low or no cost to prisoners.

**The Prisoner's Guide to Survival**
PSI Publishing, Inc.
413-B 19th St #168
Lynden WA 98264
Tel: (800) 557-8868
E-mail: prisonersurvival@earthlink.net
Website: www.prisonerlaw.com

A comprehensive legal assistance manual for post conviction relief and prisoners' civil rights actions. 750 pages, soft cover, $49.95 for prisoners. No matter what your legal or educational background, *The Prisoner's Guide to Survival* will help you learn how to research the law, study your rights, determine your legal options, and take the necessary steps to protect your rights or challenge an illegal conviction or sentence. Complex issues are explained in plain language so that even if you don't have an attorney, you can make an informed decision regarding your legal choices. The Survival Guide includes: current legislation and court decisions affecting prisoners, actual-size example forms for Appeals, Habeas Corpus actions, Motions, Constitutional rights complaints for state and federal prisoners, and much more.

**Prisoner's Self-Help Litigation Manual**
75 Main St.
Dobbs Ferry NY 10522-1601
Tel: (914) 693-8100
E-mail: orders@oceanalaw.com
Website: www.oceanalaw.com

Many grievances of prisoners can be remedied without the assistance of a lawyer. Oceana Publications offers the *Prisoner's Self-Help Litigation Manual* ($32.95). This valuable publication includes an outline of Federal and State legal systems and relevant terminology. This essential resource will help you to understand your rights, and will present possible remedies.

Oceana Publications, Inc.

**Prison Law Office**
General Delivery
San Quentin, CA 94964
www.prisonlaw.com

The Prison Law Office is a non-profit law office that offers free legal services to people in California prisons regarding conditions of confinement, and provides self-help legal manuals on various topics including parole hearings, Habeas Corpus, and suing a public entity. We also offer numerous self-help law manuals free of charge.
Prison Legal News is an independent 36-page monthly publication that provides a cutting edge review and analysis of prisoner rights, court rulings, and news about prison issues. PLN has a national focus on both state and federal prison issues, with international coverage as well. PLN is subscribed to and read by civil and criminal trial and appellate attorneys, judges, public defenders, journalists, academics, paralegals, prison rights activists, students, family members of prisoners, concerned private individuals, politicians, and state-level government officials. PLN will mail, at no charge, an informational brochure, a brochure of the legal and prisoner oriented books it sells, a calendar, and a bookmark to any prisoner in the U.S.

22 18 U.S.C. section 2381
24 28 U.S.C. section 1865(b)(5)
25 21 U.S.C. § 862(d)(1); U.S.S.G. § 5F1.6,
27 47 C.F.R. § 73.4280, 55 Fed. Reg. 23,082 (June 6, 1990, setting forth F.C.C. 90-195, the F.C.C.’s policy statement expanding the scope of inquiry to consider all felony convictions in evaluating a broadcast licensee’s character).
28 Having a criminal record is not a protected basis under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000
29 42 USC 2000e-2(a) -- It shall be an unlawful employment practice for an employer—
30 42 USC § 2000e–2(k)(1)(A)(i): An unlawful employment practice based on disparate impact is established under this subchapter only if... a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity.
32 10 USC § 2408
33 29 USC § 1111
34 12 USC §1818
35 18 USC § 1033
36 7 USC § 12a and 15 USC § 80b–3
37 18 USC § 2385
38 21 U.S.C. §§ 862a(a), (b), (d)(2).
41 http://www.lac.org/toolkits/TANF/TANF.htm (visited 2/20/2015)
42 42 U.S.C. § 1437n(f).
47 5 U.S.C. §§ 8148(b)(1), (3).
52 8 U.S.C. § 1101(f)(3), (5), (7), (8); 1427(a).
54 Opinions of the Office of Legal Counsel, United States Department of Justice, June 19, 1995, Effects of a Pardon.
56 U.S.C. § 402(u)(3)
57 38 U.S.C. §§ 6105(a); 38 C.F.R. § 3.903(c), 3.904(c).
60 ibid.
61 CA Pen. Code, § 290.5.
63 CA Pen. Code, § 4852.17.
64 CA Code Civ. Proc., § 203 subd. (a)(5).
65 CA Pen. Code, §4852.17.
66 CA Gov. Code, § 1029, subd. (c).
67 CA Pen. Code, § 290.5.
68 CA Pen. Code, § 4852.17.
69 CA Pen. Code, § 4854.