

Collateral Consequences of a Criminal Conviction: Impact on Corrections and Reentry

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The consequences of a criminal conviction don't end with the prison sentence served or fines paid. Collateral consequences — separate from and in addition to direct consequences, such as imprisonment, fines and community supervision — continue to affect millions of Americans who have been convicted of a crime as they attempt to develop productive lives after their release and rehabilitation.¹

Unexpected Collateral Consequences

Some of the most well-known collateral consequences include being prohibited from voting or owning a firearm, but there are thousands of other, less well-known consequences that vary by jurisdiction, type and duration. People who have served their time and been released to society may find themselves barred from reuniting with a child, ineligible for certain types of employment or unable to live in public housing. Such obstacles to earning a living and enjoying a quality life could

lure or force ex-offenders back to a life of crime, thereby reentering the criminal justice system and increasing correctional cost.

While some collateral consequences have an important, specific function — for instance, preventing someone who has been convicted of a sex offense from serving as a foster parent — others apply broadly to anyone with a criminal conviction, regardless of whether the consequence is relevant to that person's crime and whether they are likely to reoffend.² For instance, Texas prohibits any person convicted of a misdemeanor from serving as an instructor at a career school or college. Such a consequence could strike a devastating blow to a former instructor seeking employment and force that individual back to a life of crime (and possibly back to prison) in order to survive.

Striking a balance between public safety and successful reentry is critical to reducing the prison population and reducing correctional costs. With proper monitoring, offenders rejoining their communities should participate in treatment programs that can improve their lives and their families' lives — programs such as academic courses, vocational training, substance abuse therapies and other rehabilitation programs focused on reintegration.

These programs could begin in prison and continue as long as needed during reentry.

Addressing the Issue

Collateral consequences have long been hidden, buried in the language of state and federal statutes and codes, without a straightforward way for individuals, their attorneys or their sentencing judges to know which ones might be pertinent and applicable to a specific situation. However, having this information is critical for making informed decisions during the course of a criminal case and for understanding the legal and regulatory barriers to reentry. To remedy the lack of a central resource, NIJ awarded a grant to the American Bar Association (ABA) to undertake a national study compiling collateral consequences for federal and state criminal convictions, as well as provisions for relief, if any, from those consequences. The purpose was to “understand the full range of collateral consequences a convicted person experiences after leaving the custody of the criminal justice system.”³ ABA researchers used the LEXIS database to search for and examine laws and regulations containing specific language as a predictor of a collateral consequence. Upon determining that a law or regulation does, in fact, impose a

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consequence, the law or regulation was coded by lawyers and entered into a database.⁴

The results of ABA's study has been released in the form of an interactive website, the National Inventory of the Collateral Consequences of Conviction (NICCC), which is a publicly accessible database comprising more than 45,000 collateral consequences and civil disabilities. Users can navigate to their state of residence and then sort by a number of criteria, including type of crime and category of consequence. The inventory offers a quick, intuitive method for finding the exact sanctions or disqualifications that apply to a specific case based on jurisdiction and type of crime. According to ABA's NICCC website, as a result of the growing incidence and severity of collateral consequences, "millions of Americans are consigned to a kind of legal limbo because at one point in their past they committed a crime."⁵ The inventory gives users a tool with which to navigate the complex landscape of collateral consequences and, importantly, find avenues to relief from those civil disabilities.

The First National Summit on Collateral Consequences, held Feb. 27, 2015, in Washington, brought together national leaders in criminal law to celebrate the completion of the inventory and to discuss the issues. In her keynote address, Amy L. Solomon, director of policy at the Office of Justice Programs, noted that the "long-term — sometimes lifetime — impact of a criminal record

will keep many people from obtaining employment, accessing housing, higher education, loans and credit — even if they've paid their debt to society, turned their lives around, are qualified and are unlikely to reoffend." William C. Hubbard, president of ABA, added that "for the first time, there is reason to believe that conscientious judges and lawyers will pay attention to collateral consequences as they dispose of criminal cases. Before defendants plead guilty to an offense, they can see the full effect of what that plea may cost them." The summit featured panels on reentry, criminal records and sentencing considerations, with notable speakers including James Cole, former deputy U.S. attorney general; U.S. District Judge Paul L. Friedman of the District of Columbia; District of Columbia Superior Court Judge Michael L. Rankin; and Carrie Johnson, justice correspondent for National Public Radio.

Looking Ahead

The inventory has broad applications for individuals and criminal justice professionals. With this tool, users can better understand the full spectrum of effects that arise from a conviction — the penalties imposed by the judgment of the court are only the beginning. Having access to this information prior to the disposition of a criminal case can help defendants and their attorneys make more informed decisions about whether to enter

a plea or proceed to trial. Judges can take into account the full array of real consequences that their sentences will impose and how the collateral consequences may hinder successful reentry. Finally, professionals who work in the release and rehabilitation process can use the information gleaned from NICCC to better serve and inform the millions of Americans who leave the criminal justice system and rejoin their communities.

ENDNOTES

¹ Berson, S.B. 2013. Beyond the sentence — Understanding collateral consequences. *NIJ Journal*, 272: 24-28. Washington, D.C.: National Institute of Justice.

² Blumstein, A. and K. Nakamura. 2009. 'Redemption' in an era of widespread criminal background checks. *NIJ Journal*, 263: 10-17. Washington, D.C.: National Institute of Justice.

³ National Institute of Justice. 2009. *National study of collateral consequences for criminal convictions*. Retrieved from <http://nij.gov/funding/pages/funding-detail.aspx?solicitationid=1935>.

⁴ American Bar Association Collateral Consequences. 2013. *Project description*. Retrieved from www.abacollateralconsequences.org/description.

⁵ *Ibid.*



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