

AMERICAN BAR ASSOCIATION
COMMISSION ON EFFECTIVE CRIMINAL SANCTIONS
CRIMINAL JUSTICE SECTION
NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

REPORT TO THE HOUSE OF DELEGATES
[ON REPRESENTATION RELATING TO COLLATERAL CONSEQUENCES]

RECOMMENDATION

RESOLVED, That the American Bar Association urges federal, state, territorial and local governments to assist defense counsel in advising clients of the collateral consequences of criminal convictions during representation.

FURTHER RESOLVED, That the American Bar Association urges federal, state, territorial, and local governments to encourage prosecutors to inform themselves of the collateral consequences that may apply in particular cases.

FURTHER RESOLVED, That the American Bar Association urges federal, state, territorial and local governments to authorize and fund public defender services, legal aid services, and/or other legal service providers, to provide offenders with appropriate assistance in removing or neutralizing the collateral consequences of a criminal record.

FURTHER RESOLVED, That the American Bar Association urges federal, state, territorial and local governments to require prison officials to ensure that prisoners are informed prior to release about the process for removing or neutralizing the collateral consequences of a criminal record, and to require probation and parole officials similarly to advise persons under their supervision about this process.

REPORT

In his 2003 address to the American Bar Association, Justice Anthony M. Kennedy specifically asked the legal community to re-evaluate its “obsessive focus” on the process for determining guilt or innocence to the exclusion of considering what happens to a person once finally convicted and “taken away.” As Justice Kennedy said, “When the door is locked against the prisoner, we do not think about what is behind it.”¹ Traditionally, the role of both defense attorney and prosecutor ended after sentencing. The case was closed and the client went away, either to prison or back to the community. It was not the responsibility of either the defender or the prosecutor to monitor or even be concerned with what happened to a person after that. Defenders and prosecutors alike have assumed that social workers and parole supervision agencies will do what is necessary to ensure that offenders successfully complete their sentences and take the necessary steps to stay out of further trouble with the law. In short, offender reentry, a new term for an old concept, was not the business of the bar. Long prison terms and the increasingly severe effect of collateral consequences are forcing a change in this traditional way of looking at the responsibility of defenders and prosecutors alike.

In light of the severity of the collateral sanctions and disqualifications facing many offenders, and the discouraging effect these legal barriers have on successful reentry and rehabilitation of offenders, the legal community can no longer turn the blind eye to them. By providing the offender with the knowledge about collateral consequences at the front-end of the system, and later with adequate legal assistance to relieve the disabilities on the back-end, the chances of individuals getting their life back on track are increased. When offenders are able to successfully return to their communities and become law abiding citizens, public safety is enhanced and justice is truly served.

The ABA Criminal Justice Standards on Pleas of Guilty, and the Standards on Collateral Sanctions and Discretionary Disqualification of Convicted Persons, both require that a defendant be advised of collateral consequences before plea and at sentencing.² The Collateral Sanctions Standards also provide that jurisdictions, in order to facilitate this duty of advisement, should collect all collateral sanctions in their statute books in a single chapter or section of the jurisdiction’s criminal code, and identify with particularity the type, severity and duration of collateral sanctions applicable to each offense.³ The recommendations of the Justice Kennedy Commission, adopted by the

¹ An Address by Anthony M. Kennedy Associate Justice, Supreme Court of the United States, American Bar Association Annual Meeting (August 9, 2003) at 2-3. Available at <http://www.abanet.org/cccs>.

² Standard 14-1.4(c) provides that before accepting a plea, the court should advise the defendant of the possibility of various collateral sanctions. Standard 14-3.2(f) provides that defense counsel should advise the defendant of collateral sanctions before the entry of a plea of guilty “to the extent possible.” Standards 19-2.3(a) and 19-2.4(a) both require that the defendant be notified of the collateral sanctions that will result from the conviction, by the court or defense counsel, before pleading guilty and before sentencing, respectively.

³ Standard 19-2.1.

House of Delegates as ABA policy in 2004, urged bar associations to establish programs to encourage and train lawyers to assist prisoners in applying for relief from collateral sanctions. We take the further step of urging states, in the first Resolved Clause, to assist defense counsel in advising clients of the collateral consequences of criminal convictions during representation.⁴

The Collateral Sanctions Standards already require a court “to ensure, before accepting a plea of guilty, that the defendant has been informed of collateral sanctions made applicable to the offense or offenses of conviction.” Standard 19-2.3(a). The court’s duty may be satisfied by confirming on the record that defense counsel’s duty of advisement has been discharged. *Id.* The effect of the resolution is to make advice about collateral consequences as much of a part of defense practice as is the investigation and preparation of the client’s case, and to insist that governments make it easier for defense counsel in carrying out this responsibility. The most helpful form such assistance can take is to collect and make available specific information about applicable collateral consequences to all criminal justice practitioners.

Traditionally, the role of the defender was to minimize the pain the clients suffer, and the pain was defined as incarceration or financial penalties. Today, the severity of collateral consequences has changed the parameters of that calculation, and defenders must reorient their thinking about what minimizing their clients’ pain now means. Collateral consequences of conviction may pose barriers to employment, housing, education, and, for non-citizens, their ability to remain in the United States. Before a defendant pleads guilty and at sentencing, defense counsel should assure that the defendant understands what a conviction means and be prepared to argue for a sentence that provides the defendant with as few detrimental collateral consequences as possible. Defenders must begin to interview every client about their immigration, housing, employment status, and other relative issues in order to determine if civil disabilities will apply. If a red flag is raised concerning any of these issues, that client should be referred to a civil legal attorney or specialist for advice concerning the extent and direction of any potential collateral consequences. Upon receiving this crucial information, the client will be in a better position to make an informed and knowing decision about how to proceed in the case.

The Commission believes that sentencing courts should ensure that defenders have carried out their obligation to advise the client about collateral consequences before

⁴ In its original recommendation to the House, the Commission urged jurisdictions to assist defenders in carrying out their “ethical duty” to advise clients about collateral consequences. In further discussions, the Commission was persuaded that it is neither necessary nor useful to categorically identify defense counsel’s obligation to advise of collateral consequences as an “ethical” one. In some cases, depending upon the nature and severity of the collateral sanction in relation to the pending criminal charges, a defender’s failure to advise might amount to professional incompetence. A noncitizen client’s exposure to almost certain deportation in the event of a felony conviction is the paradigmatic case in which failure to advise of collateral sanctions would raise competency questions. In many other cases, however, failure to advise of each and every collateral penalty would not raise any such questions, particularly where information about those collateral penalties was not readily available.

accepting a plea and at sentencing. One of the core concerns underlying this obligation is that people who plead guilty should know and understand the consequences of their guilty plea. Under the current system, courts shoulder virtually no responsibility for ensuring that defendants are adequately aware of the consequences, outside of the criminal justice system, that they may face after conviction.⁵ There still remains a tremendous need for courts and legislatures to address the collateral consequences problem, and we urge jurisdictions to move in this direction.

Relatedly, in the second resolved clause, prosecutors are asked to inform themselves about the collateral consequences that may apply in particular cases. The goal is ensure that prosecutors are knowledgeable regarding the consequences of their charging decisions and sentencing recommendations, beyond the amount of time a person may be incarcerated or placed on probation and the amount of a fine. All participants in the criminal justice system should understand that the collateral consequences of conviction may impose as great a burden or detriment upon a convicted offender as the sentence itself. It is important for prosecutors to exercise their discretion with an eye to the overall impact of a charging decision or sentencing recommendation upon a particular individual.

Robert M.A. Johnson -- District Attorney of Anoka County, Minnesota and Chair-Elect of the ABA Criminal Justice Section, and a Liaison Member of the Commission -- has stated that in seeking justice, prosecutors must consider the circumstances of the offense, the offender, and the consequences of the conviction. Mr. Johnson, a former president of the National District Attorneys Association, stated in his 2001 NDAA President's message that:

At times, the collateral consequences of a conviction are so severe that we are unable to deliver a proportionate penalty in the criminal justice system without disproportionate collateral consequences. There must be some reasonable relief mechanism. It is not so much the existence of the consequences, but the lack of the ability of prosecutors and judges to control the whole range of restrictions and punishment imposed on an offender that is the problem. As a prosecutor, you must comprehend this full range of consequences that flow from a crucial

⁵ Courts have held that while a judge taking a guilty plea must advise of the "direct" consequences (e.g., imprisonment and fine), defendants need not be told by the court or their counsel about collateral sanctions. See, e.g., *Foo v. State*, 102 P.3d 346, 357-58 (Hawaii 2004); *People v. Becker*, 800 N.Y.S.2d 499, 502-03 (Crim. Ct. 2005); *Page v. State*, 615 S.E.2d 740, 742-43 (S.C. 2005). For a discussion of this principle, see Gabriel J. Chin & Richard W. Holmes, *Effective Assistance of Counsel and the Consequences of Guilty Pleas*, 87 CORNELL L. REV. 697 (2002). Even in the absence of constitutional requirement, however, a majority of the states provide for disclosure of some collateral sanctions. For example, at least two dozen jurisdictions by court rule or statute require the court to advise defendants of potential immigration consequences before accepting a guilty plea. For complete statutory citations, see National Conference of Commissioners on Uniform State Laws, Uniform Law on Collateral Sanctions and Disqualifications, Draft dated November 27, 2006, at notes 87-91.

conviction. If not, we will suffer the disrespect and lose the confidence of the very society we seek to protect.⁶

It is encouraging that the National Association of District Attorneys has begun to address the issues involved in offender reentry, with an eye toward engaging more in the process.⁷ The responsibility of a prosecutor differs from that of the usual advocate, because the prosecutor is charged with seeking justice and not merely winning convictions. Accordingly, prosecutors should consider the important implications of collateral consequences if they are to ensure that justice is achieved.

In the third resolved clause, the American Bar Association urges legislatures to authorize and fund public defender services, legal aid services, and/or other legal service providers, to provide offenders with assistance in mitigating or neutralizing the collateral consequences of a criminal record. As the discussion below indicates, the issue of who should provide services to offenders seeking to remove or ameliorate collateral sanctions is a controversial one in the defense community.

There is on-going debate within the defense community about whether the role of the defender should be expanded to include reentry services. During the Commission's hearings, that debate was fully aired. Peter Ozanne, Executive Director of the Oregon Office of the State Public Defender, testified that public defenders should concentrate on becoming great lawyers in the court room and undertake no role in community corrections or reentry. Edwin Burnett, Public Defender in Cook County, Illinois, stated in his testimony that treatment and re-entry are not on the defense counsel priority list, and that defender offices are not set up to handle clients after their cases are adjudicated. He further stated that the natural focus is on the courtroom, because the defense bar is measured by effective representation and not social referrals. The views of Messrs. Ozanne and Burnett reflect the concern of many within the defense bar who argue that if a public defender office elevates social work and community-outreach practice institutionally, it risks professional imbalance with its lawyers losing focus on their core role of plea negotiation and trial litigation.

The opposite viewpoint was expressed by three other senior public defenders who testified. Paul DeWolfe, Montgomery County (MD) Public Defender, participates in the Montgomery County Jail's Pre-Release Center, working with social workers and

⁶ Robert M.A. Johnson, *Message from the President: Collateral Consequences*, The Prosecutor, May-June 2001, available at http://www.ndaa-apri.org/ndaa/about/president_message_may_june_2001.html.

⁷ In July 2005, the National District Attorneys Association adopted "Policy Positions on Prisoner Reentry Issues," available at http://www.ndaa-apri.org/pdf/policy_position_prisoner_reentry_july_17_05.pdf. This document affirms prosecutors' interest in offender reentry as a public safety issue, stating that "America's prosecutors should, where practicable, be participants in addressing th[e] issue [of offender reentry] in an effort to reduce recidivism and ensure the safety of victims and the community." It recommends that "prosecutors should educate themselves regarding the reentry programs that are provided or being proposed in their local jails and state prisons in addition to those reintegration plans that are being supervised by probation, parole, or their local community services board and be supportive of appropriate programs and plans."

probation officers in a multi-disciplinary team approach to reentry. He even has an office inside the jail itself. He has organized a program whereby private law firms working under his supervision provide pro bono legal services to the offenders returning to the community through the Pre-Release Center.⁸ Jim Neuhard, Director of Michigan's State Appellate Defender Office, agreed that defenders should form partnerships with other service organizations to provide re-entry legal services. He believes that the traditional public defense system model does not sufficiently consider the long-range outcomes for the client, and that defenders should concern themselves with the civil consequences of criminal convictions during legal representation. Indeed, he urged that it should be an ethical responsibility for the defense bar to understand the collateral consequences facing their clients. Didi Sallings, Executive Director of the Arkansas Public Defender Commission, told the Commission that her office has already expanded the defender's role outside of the courtroom to provide clients with assistance in expunging criminal records. She stated that there is a tremendous need for public defenders to provide post-adjudication services to assist their clients in getting their lives back on track. These three represent the view that defenders must take a broader approach to their responsibilities to clients if they want to avoid having those clients come back into the system again and again.

The Commission believes that public defenders and the criminal defense bar generally must re-evaluate traditional philosophies and practices relating to the scope of legal representation. Over the past two decades, many public defender offices across the country have broadened the range of defense services provided to indigent clients to include what is now commonly referred to as "holistic representation" or "whole client representation." These concepts are born out of the concept of therapeutic jurisprudence,⁹ which stems from the legal academy, and the problem-solving lawyering concept,¹⁰ which stems from practitioners. The holistic model recasts the defense role by considering the social, psychological and socioeconomic factors that drive criminal behavior. Robin Steinberg of the Bronx Defenders has stated that "working

⁸ The Jail's reentry program, organized by Montgomery County Corrections Chief Art Wallenstein and Jail Administrator Rob Green, is six to nine months in duration, and during this period participants are allowed to work during the day and receive counseling and other supportive services at night. They are permitted to save all their earnings from work in order to help them obtain housing and other services upon release.

⁹ Therapeutic jurisprudence is the "study of the role of the law as a therapeutic agent." It focuses on the law's impact on emotional life and on psychological well-being. Therapeutic jurisprudence focuses attention on humanizing the law and concerning itself with the human, emotional, psychological side of law and the legal process. See David Wexler, *Therapeutic Jurisprudence: An Overview*, 17 T.M. Cooley L. Rev. 125, 125 (2000).

¹⁰ Problem solving lawyering provides integrated services to clients; promotes collaboration between civil legal aid and public defense practitioners to help clients and communities; relies on other professionals such as social workers, mental health experts and mitigation specialists to address the accused person's underlying problems. See, e.g., Cait Clarke and James Neuhard, *Making the Case: Therapeutic Jurisprudence and Problem Solving Practices Positively Impact Clients, Justice Systems and Communities They Serve*, by 17 St. Thomas L. Rev. 781, 781 fn 3 (2005).

compassionately with indigent clients means seeing firsthand that the problems and challenges they face stretch farther than the confines of the criminal cases before them.”¹¹

In a traditional public defender office, the goal is to remove the immediate threat of legal jeopardy, not address larger issues. The traditional approach does not allow the defender to delve deeper to address the issues that contributed to the client’s involvement with the criminal justice system. The holistic representation model does not change the fundamental and compelling value of getting an acquittal, less jail time, or avoiding prison altogether for a client. It merely adds the goal of making a long-term difference in the life of the client. By providing civil legal services to address offender’s civil disabilities, defender offices are encouraged to see beyond the courtroom disposition of their criminal cases and address the underlying social issues hindering their client’s successful reintegration into the community.

Several public defender organizations have already begun providing reentry-related services or are soon to begin. Some of these services include representation in employment-related proceedings, deportation-related proceedings, and housing-related proceedings, as well as assistance with expunging criminal records. In addition to the Maryland and Arkansas programs described above, the Bronx Defenders, a community defender organization has instituted a Civil Action Project that provides comprehensive legal services to clients and their families by fully integrating civil representation with their criminal defense practice.¹² Its goal is to develop proactive approaches to minimize the severe and often unforeseen consequences from criminal proceedings and facilitate the reentry of clients into the community. The Bronx Defenders is also dedicated to addressing the underlying issues that led to their client’s involvement with the criminal justice system in the first place.

The Neighborhood Defender Services (“NDS”) of Harlem, also has a team of attorneys to represent its clients in the civil matters that arise from their criminal cases.¹³ NDS realizes that the potential consequences of those civil matters are often more severe than the disposition of the criminal case. The NDS civil team represents clients in a broad range of civil matters, principally police brutality and misconduct, housing matters and family court child protective proceedings. Similarly, the Public Defender Service of the District of Columbia has a civil legal services unit that will shortly begin to handle a wide range of cases involving the collateral consequences of a criminal arrest, conviction or an extended period of incarceration, such as civil forfeiture, eviction, denial of public benefits, termination of parental rights, deportation and academic expulsion.¹⁴

¹¹ Robin G. Steinberg, *Beyond Lawyering: How holistic representation makes for good policy, better lawyers and more satisfied clients*, at 2, available at <http://www.pili.org/2005r/dmdocuments/IV.Panel%20Robin%20HolisticRepres.pdf>

¹² <http://www.bronxdefenders.org/comm/006.html>

¹³ <http://www.ndsny.org/programs.htm#civdefense>

¹⁴ <http://www.pdsdc.org/Civil/index.asp>

It helps defenders take the broader approach to helping their clients if the legal system is flexible enough to ensure a good outcome for the client and the prosecutor is willing to buy into a utilitarian approach. For example, if the law provides for deferred adjudication and eventual expungement of the record upon successful completion of probation, as it does in Arkansas and Connecticut and many other states, a defender is naturally more willing to encourage the client with a substance abuse problem to plead guilty and participate in a community-based therapeutic treatment program. If it does not, and the client is going to end up with a record anyway, it makes an onerous treatment regime seem comparatively unappealing.

If a conviction occurs and collateral consequences are imposed, offenders need legal assistance in seeking restoration of their rights and privileges. In urging authorization and funding of public defender services, legal aid services, and/or other legal service providers, to provide offenders with assistance, the Commission calls on governments to provide new funds for this purpose, not to shift funds so that for every extra social worker or civil attorney the public defender office hires, there will be one less attorney that the office can employ in criminal representation. The Commission recognizes that the overwhelming caseload and diminishing resources currently available to support the fundamentals of criminal defense representation make this recommendation unattainable for most public defense practitioners without additional funding. Problem solving approaches demand more resources if they are to be practiced effectively, and most defenders barely have the time or resources to perform the basic responsibilities of client representation.

Assistance in overcoming collateral consequences may also come from other sources, namely prosecutors and correctional officials. District Attorney Michael D. Schrunk of Multnomah County, Oregon, testified that his office had recently sponsored a program called “Project Clean Slate,” to provide county residents with an opportunity to apply for expungement, handle outstanding warrants, clear unpaid fines, and clear driver’s license suspensions, and received an overwhelming response.¹⁵ On the scheduled day of the program local law enforcement officials and attorneys met with 800 people to attempt to resolve various outstanding problems related to their criminal records and court orders; an additional 1700 individuals who registered for the program were assisted over the course of nine weeks following the event. In Multnomah County, expungement requests are brought to the court by the DA’s office, and the court generally grants any request upon the prosecutor’s recommendation. Mr. Schrunk testified that he regards expungement as a critical service for former offenders, since a conviction record can hinder them in getting jobs and housing.¹⁶

¹⁵ March 31 Commission Hearing Notes, available at <http://www.abanet.org/cecs>. In addition, information on Project Clean Slate is available under “Hearing Materials” on this website.

¹⁶ Under Or. Rev. Stat. § 137.225(1) through (12), the sentencing court is authorized to “set aside” misdemeanors and minor felonies (Class C, except sex and traffic offenses, and some other minor crimes). Upon application and a determination of eligibility, an order must issue unless the court makes written findings by clear and convincing evidence that granting the motion would not be in the best interests of justice. § 137.225(11). “Upon entry of such an order, such conviction, arrest or other proceeding shall be

David Guntharpe of the Arkansas Department of Community Corrections testified that his legal staff had recently discovered a little-known Arkansas statute that allows probationers who have successfully completed all of the terms of their probation to petition the court to dismiss the charges against them and expunge the record.¹⁷ Understanding that many of the people supervised by his agency do not have the means to hire a lawyer and go to court, Mr. Guntharpe directed his staff to prepare a model petition form to give to each probationer as he or she “graduates,” so that they can easily file the form with the court and obtain expungement.

Law school clinics can serve as a critical link in providing legal services to people seeking relief from the collateral consequences of conviction. Law schools today are generally doing little to prepare future lawyers to deal with the legal, social, and administrative problems arising from criminal convictions in this country. Training lawyers to become social engineers¹⁸ who are highly skilled, perceptive, sensitive lawyers who understand the importance of solving “problems of local communities” and “bettering conditions of the underprivileged citizens” is generally not emphasized in traditional legal education, where the focus tends to be on the workings of the adversary system.¹⁹ Clinical legal education has been and remains available as a tool to sensitize future attorneys to the social, economic, and political forces that affect their lives of their

deemed not to have occurred, and the applicant may answer accordingly any questions relating to their occurrence.” Or. Rev. Stat. § 137.225(4).

¹⁷ Under Ark. Code Ann. § 5-4-311(a) and (b), probationers for whom a judgment of conviction was not entered, including those who went to trial, are entitled to apply to the sentencing court upon completion of supervision for an order dismissing the charges, and “expunging” the record. According to the Arkansas Department of Community Correction, a judgment of conviction is not entered in any case where a prison term or fine is not imposed, so that the relief afforded by this statute is potentially available to all persons sentenced to probation only. A person whose record is expunged “shall have all privileges and rights restored, shall be completely exonerated, and the record which has been expunged shall not affect any of his civil rights or liberties, unless otherwise specifically provided for by law.” § 16-90-902(a). “Expunge” is defined to mean that the record “shall be sealed, sequestered, and treated as confidential in accordance with the procedures established by this subchapter,” but “shall not mean the physical destruction of any records.” Ark. Code. Ann. § 16-90-901(a). Upon the entry of the order to seal, the underlying conduct “shall be deemed as a matter of law never to have occurred, and the individual may state that no such conduct ever occurred and that no such records exist,” including in response to questions. § 16-90-902(b). Records may be disclosed if the person applies for employment with a criminal justice agency or is subsequently prosecuted for a new crime. § 16-90-903(a)(2)-(4). A conviction that has been expunged may not be used as a predicate offense. See *State v. Ross*, 39 S.W. 3d 789 (Ark. 2001).

¹⁸ The concept of the lawyer as social engineer was originated by Charles Hamilton Houston, civil rights attorney and former Dean of Howard Law School, who conceived of and developed the legal strategy that resulted in the end of legalized racial segregation in the United States. He taught and mentored Thurgood Marshall and others who argued and won the 1954 U.S. Supreme Court decision in *Brown v. Board of Education*. See Genna Rae McNeil, *Groundwork: Charles Hamilton Houston and The Struggle for Civil Rights*. Philadelphia, University of Pennsylvania Press, (1983) at 84. Charles Hamilton Houston's credo guides the Howard University School of Law's mission to this day: "A lawyer's either a social engineer or he's a parasite on society."

¹⁹ *Id.*

clients and strengthen their concern for social justice. An understanding of these critical issues will arm the next generation of attorneys with problem-solving techniques that can be used to improve the overall efficacy of the criminal justice system.

The Justice Kennedy Commission urged law schools to establish reentry clinics to assist individuals returning from prison or with criminal convictions regain legal rights and privileges. Two universities, New York University (“NYU”) and University of Maryland, have already established reentry clinics. NYU launched the first-ever Offender Reentry Clinic in 2002, and the clinic’s goal was to provide direct representation for ex-offenders and also to expose students in the clinic to a wide range of policy and administrative issues involved in reentry.²⁰ The objectives of the clinic were twofold. First, the course sought to familiarize students with the range of legal, administrative, and social restrictions imposed on individuals with criminal records as well as their families and communities. Second, the course was designed to examine the role that lawyers might play in helping ex-offenders navigate the legal obstacles they face upon return from prison. To date, the students have covered a range of substantive legal issues, including felon disenfranchisement and laws governing occupational bars and licensing restrictions. Because students represent actual clients, the course also offers training in litigation to help the students develop theories and hone formal advocacy skills.

The University of Maryland Law School also offers a Re-Entry of Ex-Offenders Clinical Program. The students’ work include individual representation on issues related to expungement of criminal records, partnering with the social work clinic to assist individuals on the verge of release from correctional facilities, and community presentations.²¹ Students also work with community organizations providing assistance to ex-offenders, attend legislative hearings, and meet with correctional and law enforcement agencies to advocate on behalf of offenders. The clinic offers an ambitious and exciting opportunity for students to engage in a critical examination of important and complex criminal justice issues.

In its final resolved clause, the Commission urges governments to require prison officials to ensure that prisoners are informed prior to release about the process for removing or neutralizing the collateral consequences of a criminal record, and to require probation and parole officials similarly to advise persons under their supervision about this process. Many offenders are not informed of the available remedies, and these agencies have the unique opportunity to reach offenders in order to provide this important information. The efforts of the Arkansas Department of Community Correction described above could be a model for other supervision agencies. Legislatures are also beginning to recognize this need.²²

²⁰ <http://www.law.nyu.edu/clinics/semester/offender/index.html>

²¹ http://www.law.umaryland.edu/course_info.asp?coursenum=598D

²² The Florida legislature recently passed a bill requiring county and local jails to assist inmates in applying for restoration of their civil rights by providing them upon release with the necessary forms. See Debbie Cenziper and Gary Fineout, *Ex-Felons get help regaining civil rights*, Miami Herald, May 2, 2006. Florida

Respectfully submitted,

Stephen A. Saltzburg, Co-Chair
James R. Thompson, Co-Chair

February 2007

law has for some years required the Department of Corrections to assist inmates released from state prison or supervision with this process, and to forward their names upon release to the Clemency Board for consideration for restoration of rights, though recent litigation suggests that these obligations have been honored in the breach.