

THE FEDERAL INTERAGENCY REENTRY COUNCIL

A Record of Progress and a Roadmap for the Future

Collateral Consequences



AUGUST 2016



To view the full report, visit:

<http://csgjusticecenter.org/wp-content/uploads/2016/08/FIRC-Reentry-Report.pdf>

Reducing collateral consequences, including bars to occupational licenses, that present unnecessary barriers to successful reentry

The Challenge. Collateral consequences are the statutory and regulatory penalties, sanctions and restrictions imposed on people convicted of crimes that are distinct from the direct consequences (such as prison, jail, or probation) imposed as part of the court's judgment at sentencing. Collateral consequences also include the less formal, but equally powerful, social stigma and negative societal attitudes that are associated with having a criminal record, even when it did not result in conviction. The ABA, with DOJ support, has researched state, territorial, and federal codes to identify some 46,000 collateral consequences. The ABA has catalogued each jurisdiction's collateral consequences

Attorney General Loretta Lynch visits Federal Correctional Institute in Talladega during National Reentry Week, April 29, 2016
(Photo: Department of Justice)



in the [National Inventory of the Collateral Consequences of Conviction](#) that can be searched by state, category, and keyword. The range of collateral consequences is vast, touching upon nearly every part of a reentering person's life. They include barriers to obtaining employment, finding stable housing, partaking in educational opportunities, receiving government benefits, and voting. Another significant category of collateral consequences involves restrictions related to acquiring occupational and professional licenses and certifications. The [National Inventory](#) has chronicled over 26,000 state occupational licensing restrictions for people with criminal records, including over 6,000 restrictions for misdemeanor offenses and nearly 20,000 restrictions that are lifetime or permanent restrictions for a conviction.⁹³

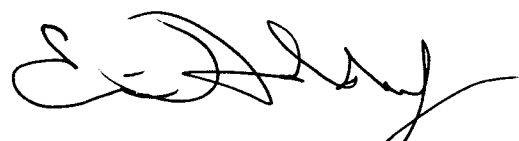
The Path Forward. A central focus of the Reentry Council is to consider whether policies and regulations can be more narrowly tailored, without impeding public safety or other legitimate government interests, to remove or reduce unnecessary barriers to individuals reentering society. The Council will promote reform by institutionalizing and building upon resources like the National Inventory, and developing tools to ensure that practitioners are aware of the full range of sanctions associated with a conviction. The Council is also committed to increasing access to resources that help formerly incarcerated individuals understand and address the barriers they face upon release. Moreover, Reentry Council agencies will continue to utilize the bully pulpit to raise awareness of unnecessary barriers and promote innovative approaches to reducing collateral consequences at the state and local level.

Reentry Council Accomplishments:

» **Raised awareness and requested collateral consequence reviews.** In 2011, Attorney General Holder [wrote](#) to all state Attorneys General, asking them to assess their state's statutes and policies to determine if any should be eliminated. He stated that some of these consequences serve important public safety purposes, but many are antiquated and create unnecessary barriers to legitimate work and civic opportunities. The Attorney General asked Reentry Council agencies to review their regulations with an eye to how and where certain barriers can be eliminated or tailored without compromising public safety.

“Public safety requires us to carefully tailor laws and policies to genuine risks while reducing or eliminating those that impede successful reentry without community benefit. In evaluating the efficacy of your state's collateral consequences, you have the opportunity to ease the burden on families and communities in your state by ensuring that people who have paid their debt to society are able to live and work productively.”

Letter from Attorney General Eric Holder to State Attorneys General on April 18, 2011



After serving over 22 years in federal prison, **Darryl Booker** was released without personal identification, financial resources, or a place to call home. Determined to move from the halfway house to a place of his own, Mr. Booker immediately began taking steps to start fresh. He enrolled in the Philadelphia Supervision to Aid Reentry (STAR) program, a reentry court initiative that targets high-risk individuals with a history of violent crime. Through STAR, groups of formerly incarcerated individuals attend bimonthly court sessions with a federal judge and a team of practitioners to discuss their progress, address their needs, and develop plans for success. STAR helped Mr. Booker obtain identification, which in turn enabled him to apply for public benefits and receive a housing choice voucher from the Philadelphia Housing Authority. Unable to work due to chronic heart and lung issues, Mr. Booker obtained Social Security Disability benefits with STAR's help. Thanks to his housing voucher, Mr. Booker is now able to afford an apartment of his own. Mr. Booker participates in continuing education classes and volunteers at L.I.F.E. Ministries to help others in their own reentry.



Darryl Booker, in foreground, participates in National Reentry Week roundtable, April 25, 2016. (Photo: Department of Housing and Urban Development)

Luis Cordero is also a successful graduate of STAR. Determined to become a productive member of his community upon release, he requested to participate in STAR while he was still incarcerated. Through STAR and Philadelphia Housing Authority's Second Chance Program, he received a housing choice voucher, which helped him relocate to a new neighborhood. Since his release, he has worked in landscaping, construction, maintenance and is now a licensed plumber apprentice. His goal is to eventually become a master plumber.



Luis Cordero, graduate of Philadelphia Supervision to Aid Reentry (STAR) program, shakes hands with Attorney General Loretta Lynch after roundtable discussion, April 25, 2016. Also pictured: Sharon Dietrich of Community Legal Services of Philadelphia. (Photo: Department of Housing and Urban Development)

Mr. Booker and Mr. Cordero are two of the individuals who benefited from the STAR program. STAR has shown promising results. An evaluation of the program demonstrated that STAR participants were associated with an 84 percent reduction in supervision revocation, and that 61 percent of STAR participants were employed, compared to only 44 percent of the control group.⁹¹ And by reducing recidivism and revocation, STAR reports generating more than \$1 million in savings per year.⁹²

» **Implemented collateral consequence changes within federal agency authorities.**

Several federal agencies have addressed collateral consequences through guidance and directives, as noted throughout this report (see EEOC [guidance](#), DOL [guidance letter](#) and [directive](#), HUD [fair housing guidance](#), ED [clarification letter](#) and [Second Chance Pell Pilot program](#), OPM proposed [rule](#), and SBA Microloan [rule](#).) In addition:

- As part of the “Smart on Crime” initiative, Attorney General Holder also issued a [memorandum](#) directing all DOJ components to take collateral consequences into account when proposing any new regulation or guidance.
- HHS provided [guidance](#) clarifying that the drug felon ban for TANF recipients does not apply to services or benefits not specifically delineated within the regulatory definition of the term “assistance.”⁹⁴
- The VA has responded to a petition from veterans’ advocates, agreeing to engage in rulemaking to clarify regulations concerning the definitions of moral turpitude and willful and persistent misconduct, which are factors in VA’s evaluation of the impact of a veteran’s character of discharge on his or her eligibility for VA benefits.⁹⁵ VA also plans to re-examine the language in the regulations to incorporate mitigating circumstances for acts that might have affected the type of discharge issued by the pertinent military service department.

» **Launched new efforts to address occupational licenses.** The Department of the Treasury, DOL, and the CEA issued a [report](#) addressing occupational licenses including a discussion of best practices for state policymakers seeking to improve their licensing policies. And in April 2016, President Obama issued a [Presidential Memorandum](#) directing federal agencies to ensure that federally-issued occupational licenses are not presumptively denied on the basis of a criminal record. Reentry Council agencies are building upon this directive by providing assistance to states to undertake similar initiatives.

» **Expanded legal aid to address collateral consequences.**

- In collaboration with DOJ’s Office for Access to Justice (ATJ), several large grant programs – such as the DOJ Second Chance grants and DOL REO grants – now allow for the use of federal funds to pay for legal assistance to secure driver’s licenses, expunge criminal records, modify child support orders, and litigate inappropriate denials of housing or employment and violations of the Fair Credit Reporting Act.

“We are a nation that believes in second chances. Providing legal services to help individuals make a successful transition back to their communities, while also empowering them with the skills necessary to find a good job and thrive in the workplace, will help strengthen our economy and our society.”

**Labor Secretary
Thomas Perez**

- ATJ developed a case study, [Civil Legal Aid Supports Federal Efforts to Help People with Criminal Records Make a Successful Reentry](#), which is part of an [online resource guide](#) containing useful information about civil legal services, and how those services can help advance a broad array of federal objectives, including reentry.



Juvenile Reentry Assistance Program (JRAP) Announcement in Philadelphia during National Reentry Week, April 25, 2016. (Photo: Department of Housing and Urban Development)

- HUD and DOJ funded Juvenile Re-entry Assistance Program (JRAP) partnerships between PHAs and nonprofit legal aid providers to help public housing residents and their family members under the age of 25 expunge, seal, or correct their juvenile and criminal records in accordance with applicable state laws. The awards also enable legal aid providers to help youth address the collateral consequences of having a record. In addition, the National Bar Association – the nation’s oldest and largest national association of predominantly African-American lawyers and judges – has committed to supplementing this program with 4,000 hours of pro bono legal services.

Upcoming Actions:

- » **Institutionalizing support for the National Inventory of Collateral Consequences of Convictions and assistance to states.** DOJ is institutionalizing support for the National Inventory by building it into the National Reentry Resource Center (NRRC). The NRRC will manage the National Inventory and ensure that this vital resource remains up to date. DOJ is also creating capacity for the NRRC to assist states in reviewing and mitigating the impact of state-based collateral consequences as part of its Second Chance Act programming.
- » **Supporting innovations to address occupational licenses.** DOL has announced grant funding to convene states to review and analyze occupational licensing requirements and develop recommendations to make progress toward identifying licensing criteria to enhance portability from state to state and ensure that existing and new licensing requirements are not overly broad or create unnecessary barriers to labor market entry. DOJ is also providing technical assistance to support state efforts to improve state licensing opportunities for individuals with criminal records.
- » **Developing tools for the field.** DOJ aims to help prosecutors, defense attorneys, and the accused understand the full spectrum of sanctions that a conviction entails. DOJ is developing bench books to help judges, prosecutors, defense attorneys and defendants understand the full spectrum of sanctions a conviction entails. DOJ is also exploring the development of a resource guide highlighting examples of innovative state and local practices that provide relief from collateral consequences. DOJ will develop additional tools geared toward providing concise and critical collateral consequences information to returning citizens in the format most accessible to these individuals.

- » **Expanding collateral consequences resources for tribal communities.** DOJ is supporting new projects to provide general information about the civil and criminal collateral consequences that result from convictions and/or incarceration in tribal communities. DOJ partners also support the 19 Indian Legal Aid Offices that provide legal representation to qualifying defendants in tribal criminal proceedings and legal assistance to Indian tribes and tribal justice systems.

- » **Expanding collateral consequences resources for youth.** DOJ is providing planning grants to develop comprehensive statewide reforms to improve the quality of legal representation for indigent juveniles, including funding to hire and train legal aid attorneys to address collateral consequences for justice-involved youth. DOL created an online, user-friendly career exploration resource called “[Get My Future](#)” for court-involved youth to help them understand their employment interests and opportunities. As discussed in the employment section, DOL and DOJ are also launching a National Clean Slate Clearinghouse. DOL also recently announced over \$31 million in funding for the Reentry Demonstration Projects for Young Adults, which allow organizations the flexibility to design programs for adults ages 18 to 24 that apply evidence-based interventions, such as mentoring, Career Pathways, Registered Apprenticeship, family reunification and other promising practices with a focus on providing occupational training and credentials.

Andy’s 10-year old felony conviction prevented him from pursuing his hopes of securing a state license to become a New York Licensed Practical Nurse. The Fortune Society, a grantee of DOL’s Reentry Employment Opportunities Program, referred Andy to MFY Legal Services in New York. His legal aid lawyer helped Andy obtain out-of-state criminal court records, gather proof of rehabilitation, and represented him at the initial investigative interview. The result was a successful license application and a job.

After release from jail and completion of a 90-day substance use disorder treatment program, **Ruben** sought help from Bay Area Legal Aid, Contra Costa, CA. Ruben’s attorney helped him stabilize several key areas of his life, including advising him on driver’s license reinstatement, his Section 8 housing status, family law matters and consumer/credit issues. These services helped him reunite with his family, secure employment, and be evaluated “low risk” on the Probation Department’s assessment tool. Bay Area Legal Aid’s reentry work is supported by U.S. Department of Health and Human Services Community Centered Responsible Fatherhood ExPrisoner Reentry Pilot Project, and DOJ’s Second Chance Act Adult Reentry Program for Planning and Demonstration Project.

Source: White House Legal Aid Interagency Roundtable, *Civil Legal Aid Supports Federal Efforts To Help People With Criminal Records Make A Successful Reentry* (Washington, DC: Dept. of Justice, April 2014), <https://www.justice.gov/lair/file/826501/download>.