

MISSION STATEMENT

TASK FORCE ON RESTORATION OF RIGHTS AND STATUS AFTER CONVICTION

CONTEXT

The vast expansion of the criminal justice system over the past thirty years has produced a corresponding increase in the number of people convicted of a crime. One recent study found that 65 million Americans have a criminal record, and that is almost certainly an undercount if arrests are included. At the same time, the consequences of conviction – specific legal barriers, generalized discrimination, and social stigma – have become more numerous and severe, more public, and more permanent. They affect jobs and licenses, housing, public benefits, judicial rights, parental rights, interstate travel, and even volunteer opportunities. More than at any time since the Middle Ages, conviction confers a semi-outlaw status that is frequently a criminal defendant’s most serious punishment. The recent obsession with background checking has made it all but impossible for convicted persons to put their past behind them. The legal mechanisms relied on in the past to restore rights and status – pardon, expungement, certificates of good conduct -- have atrophied or become ineffective, with the result that a significant percentage of the American public is permanently consigned to second class citizenship.

Accordingly, NACDL proposes to undertake an inquiry into how legal mechanisms for relief from the collateral consequences of conviction are actually working, in state and federal systems, and develop comprehensive proposals for reform.

OBJECTIVES

One goal of this inquiry is to enable defense lawyers to help their clients avoid or mitigate the consequences of conviction, and regain the legal rights and status lost as result of a conviction, as an extension of the responsibilities placed on the defense bar by the Supreme Court’s decision in *Padilla v. Kentucky*. Another goal is to educate other actors in the justice system – notably judges, prosecutors, and supervisory personnel – to foster an appreciation for the importance of functional restoration mechanisms. A third goal is to engage the bar generally in advocating for changes in laws and policies that will lead to increased fairness and remedies in the justice system to dismantle the functional exile to which convicted persons are now consigned,

notwithstanding their best efforts at rehabilitation. It will seek to complement the ABA's project to compile collateral consequences, the campaign underway in state legislatures to enact the Uniform Collateral Consequences of Conviction Act, and the Attorney General's call to state attorneys general to roll back collateral consequences that burden convicted individuals without increasing public safety.

PLAN

- The Task Force will conduct a series of regional hearings to study state and federal relief mechanisms, focusing on those that appear to be successful in enabling people to get on with their lives once the court-imposed punishment has been satisfied.¹
- The Task Force will take testimony from officials responsible for administering relief systems, legislators and policy-makers, defense lawyers and civil practitioners representing clients who need the relief, and, of course, the clients themselves.
- The Task Force will reach out to political leaders of diverse ideology and members of the faith community, prosecutors, and corrections personnel working with convicted persons in the community.
- The Task Force will produce a report identifying best practices, and specific legislative and policy proposals to facilitate restoration of rights and status after completion of sentence.
- The Task Force will recommend a comprehensive implementation plan for consideration and adoption by the Board of Directors to put the nation on a path that will provide meaningful and accessible opportunities for convicted persons to secure full restoration of rights and status.

¹ Some states have effective pardon or certificate programs, while others rely on judicial expungement and set-aside. Still others impose controls on access to and use of criminal history information, or extend their fair hiring laws to convicted status. Finally, many states use dispositions like deferred adjudication to avoid conviction entirely.