Collateral Consequences of Criminal Convictions

Penny Willrich, Arizona Summit Law School
The man sitting on the light rail bench had a forlorn look about him. Under most circumstances I probably would not have even spoke to him, but something about him drew me to ask him, “How’s it going?” He looked at me, sizing me up; trying to determine if I was sincere, or if it was mere small talk as I stood next to him waiting for the train. But, seeing the compassion on my face and perhaps in my eyes, he said, “The day would be great if I could find a job.”

His answer started a conversation about the predicament in which he found himself. He was a convicted felon, having been convicted of driving while under the influence (DUI) of alcohol six years prior. He had been sentenced to serve a term of four months in prison. He was supposed to be sent to a special DUI unit, but was instead placed in the general population. He was placed in the cell with two Aryan “brothers” who commenced to beat the “s@#*” out of him, causing two back surgeries and a permanent disability. As an African American man over the age of 50, he could not find permanent employment. He had just left the agency that screened employees for a local hospital. He was applying to work in the hospital cafeteria. He was told, “come back when you have had 10 years without a criminal incident.” In other words, it would take 10 years of “clean living,” in addition to his four months of prison, three years of probation and more than $6,000 in fines and restitution, before he would be eligible to be a bus boy in a hospital cafeteria.

Anyone who has been convicted of a criminal offense (misdemeanor or felony) may be subject to profound penalties after completion of their initial sentence. These penalties are known as “civil sanctions” or “collateral consequences.” They are found among the state and federal statutes. They are insidious and injurious to the rehabilitated citizen’s successful reintegration into society or their community. They dramatically affect the convicted person’s ability to obtain and maintain employment. The impact of the criminal conviction results in a stigma and a civil disability.

The civil consequences imposed as a result of the criminal conviction often have a lifetime affect. It is a form of discrimination. It is a form of shaming. The civil consequences are not a part of the criminal sentencing process, therefore many persons find out about the sanction when trying to apply for a license or obtain employment. The penalties associated with the civil consequences relegate the citizen who has “paid his or her dues to society” to the status of second class citizen. The civil consequences have been called “invisible punishments,” because they are buried deep within federal and state statutes and secure passage with little scrutiny. The laws permit agencies regulating federal and state to deny benefits.

While much attention has been given to disenfranchise-ment or the denial of the civil right to vote because of a felony conviction, little has been written about the invisible civil punishments or its impact on the ability to obtain employment. Little has been written about the implicit bias that exist in the criminal justice system that incarcerates more than 2 million people each year or the half million released into unwelcoming communities, where criminal conviction coupled with racial barriers prevent gainful employment and often leads to recidivism.

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She is the daughter of former congressman, judge and White House counsel Abner Mikva. There have been no other appointments to the LSC board, all members of which may be replaced by the new administration.

Funding Opportunities for Legal Aid (FOLA)

NLADA has formed a task force to work with us to maximize federal support for critical legal service through relevant federal programs and on streamlining processes for federal funding. This work has taken on particular importance as states struggle to gain access to stimulus funding for addressing the growing need for legal assistance.

NLADA is excited to have launched a dedicated Web site (FOLA) to assist in sharing information with the field and to stimulate dialog among stakeholders regarding funding strategies and opportunities.

Loan Repayment Assistance Programs (LRAP)

We have continued to work in the Congress to achieve funding for the Harkin civil legal aid LRAP, as well as legislative fixes for certain problems contained in the Higher Education Act reauthorization, which created the program. NLADA also commented during the development of a regulatory process for the Harkin program, as well as the loan forgiveness proposal contained in the College Cost Reduction Act.