



Collateral Consequences of Arrests and Convictions

By Patrick C. DiCarlo
Alston & Bird LLP
pdicarlo@alston.com

Several years ago, my uncle, **Lane Dennard**, approached me about helping him on a pro bono project. After retiring from his labor and employment practice at *King & Spalding*, Lane got involved with the Georgia Justice Project. Lane was representing indigent clients facing eviction from public housing. These evictions were primarily the result of an arrest or conviction.

Lane invited me to work with him to study of the civil consequences that flow from arrests and convictions. The result of this study was a book called “Collateral Consequences of Arrests and Conviction,” recently published by the Mercer School of Law under a grant from the Georgia Bar Foundation.

To assist with the study, Lane partnered with Emory Law Professor **Charlie Shanor** on a directed research project. Students at Emory Law School researched topics such as the impact of criminal records on employment, housing, public benefits and procedures required to get erroneous information removed from a person’s criminal record.

He also wanted to understand what it was like to represent indigent clients facing these issues. To do so, volunteer lawyers from *King & Spalding* and my firm, *Alston & Bird*, worked with the Georgia Justice Project representing pro bono clients seeking to have inaccurate, incomplete or misleading information removed from their criminal records.

Finally, Lane taught a class on the civil consequences of a criminal record at Mercer Law School.

“Collateral Consequences of Arrests and Convictions” is the culmination of the information garnered and lessons learned through these efforts. The book is intended to serve primarily as a resource for other lawyers. We also designed the book to serve as a road map for possible administrative and

legislative change in Georgia.

The need for such change is becoming increasingly obvious. Georgia now has one of the highest incarceration rates in the nation. A 2009 Pew study reports that one out of 13 people in Georgia are under some form of correctional control (prison, jail, or probation). This is the worst rate in the nation.

Further, the Legal Action Center in Washington recently published a study of the legal barriers facing people with criminal records and ranked the states according to the number of “roadblocks” that were in place. Georgia was ranked as the third-worst state in the nation with regard to these roadblocks. The study concluded that many of these “barriers” are counterproductive and actually increase recidivism.

The inability to find suitable work is one of the most significant barriers to re-entry into the workforce by ex-offenders. There is a clear link between unemployment and recidivism: If someone cannot find work, that person is more likely to commit a crime that provides that person’s basic needs.

This conclusion is also supported by the experience of the Georgia Justice Project. A main area of emphasis with the Georgia Justice Project is to help their clients find employment. Because of these efforts, the recidivism rate for Georgia Justice Project clients is 17%. This is less than one-third of the national average of 66%.

Unfortunately, however, charitable efforts alone are not sufficient to deal with this problem. The creation of a path from a completed sentence to productive employment will require a change in the law.

There are many indications that the time is ripe for such legislative action. *The New York Times* reported recently that conservative,

libertarian and business groups have recently joined with liberal groups to object to “overcriminalization” as an aspect of big government. Further, religious groups are vocal in advocating policies that promote rehabilitation, and fiscal conservatives are increasingly cognizant of the costs of incarceration.

The Georgia Department of Corrections has estimated that lowering the recidivism rate in Georgia by 1 percent would save Georgia taxpayers \$7 million each year. Thus, this issue is not only about giving people a second chance, but also about reducing the unnecessary costs associated with the failure to reintegrate ex-offenders into society.

We believe that reducing legal barriers to ex-offenders obtaining employment, housing and governmental benefits will yield lower costs and it will lower crime rates. It will also give the ex-offender a fair chance to get their lives back on track. ■