

**“So you’ve been sentenced and convicted. Now here’s the bad news...”
Confronting the Collateral Consequences of Conviction**

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Introduction

- Defining Terms
- Historical Background
- Types of Collateral Consequences
 - Civil and Political Rights
 - Community and Military Service
 - Employment and Occupational Licensure
 - Housing
 - Public Benefits
 - Debarment from Federal Program Participation
 - Family-related rights
 - Firearms
 - Sex offender consequences
 - Immigration
 - International Travel Restrictions
 - “Collateral” Aspects of a Sentence
- Legal Framework
 - Constitutional Issues
 - Access to and Use of Criminal Records
 - Regulation of Employment and Occupational Licensing

Restoration of Rights and Status

- Automatic restoration of rights
- Executive Pardon
- Administrative Certificates of Good Conduct
- Judicial Relief Mechanisms
- Deferred Adjudication and other Avoidance Mechanisms

Advocacy

- Charging Decisions
- The Client Interview
- Plea Bargaining
- Counseling the Client
- Trial or the Guilty Plea
- Sentencing
- Training about Collateral Consequences

“So you’ve been convicted and sentenced. Now for the bad news...”

Confronting the Collateral Consequences of Criminal Conviction



Historical Overview

- “Infamy” in the Classical World
- Consequences of Felony Conviction at Common Law (“Incidents of Attainder”)
- Early America & Constitutional Limits



What is a “collateral” consequence?

- Also called “civil disability,” “invisible punishment,” “civil consequence,” “silent sentence”
- Formal (legally-imposed) vs. informal (reputational & economic)
- Collateral sanctions vs. discretionary disqualifications




THE CONGRESS SHALL HAVE POWER TO DECLARE THE PUNISHMENT OF TREASON, BUT NO ATTAINDER OF TREASON SHALL WORK CORRUPTION OF BLOOD, OR FORFEITURE EXCEPT DURING THE LIFE OF THE PERSON ATTAINTED.

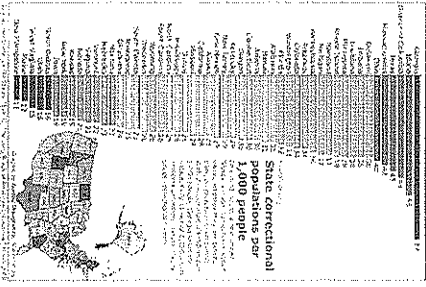
U.S. Const., Art. III, § 3, d. 2




Historical Overview

- "Infamy" in the Classical World
- Consequences of Felony Conviction at Common Law ("Incidents of Attainder")
- Early America & Constitutional Limits
- Early to Mid-20th Century
- 1980s and Beyond

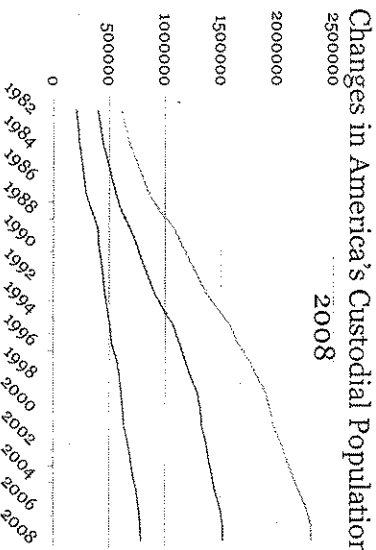

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State correctional populations per 1,000 people


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Changes in America's Custodial Population: 1980-2008




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Types of Collateral Consequences

- o Civil and Political Rights
- o Community and Military Service
- o Employment and Occupational Licensure
- o Housing
- o Public Benefits
- o Debarment from Federal Program Participation
- o Family-related rights
- o State laws on conservatorships
- o Firearms
- o Sex offender consequences
- o Immigration
- o International Travel Restrictions
- o "Collateral" Aspects of a Sentence


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Legal Framework

- Constitutional Challenges Generally
- Limitations of Access to and Use of Criminal Records
- Regulation of Employment and Occupational Licensing



Advocacy in the Criminal Case

- Charging Decisions
- The Client Interview
- Plea Bargaining
- Counseling the Client
- Trial or the Guilty Plea
- Sentencing
- Training about Collateral Consequences



Restoration of Rights & Status

- Automatic restoration of rights
- Executive Pardon
- Administrative Certificates of Good Conduct
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Future of Legal Reform

- ABA Criminal Justice Standards
- National Conference of Commissioners on Uniform State Law's Uniform Collateral Consequences of Conviction Act
- American Law Institute's Model Penal Code: Sentencing revision
- State law reform

