



BOOK REVIEW

Relief from the Collateral Consequences of a Criminal Conviction: A State-by-State Resource Guide

By Margaret Colgate Love
William S. Hein & Co. (2006)
Reviewed by Alan Ellis and
James H. Feldman Jr.

We say that people convicted of criminal offenses who complete their sentences have “paid their debt to society,” but as criminal defense attorneys, we know those debts never seem to be truly paid in full. The collateral consequences of criminal convictions are many, and vary from state to state. They often include the loss of important civil rights, including the right to possess firearms, vote, and serve on juries. Convictions may also result in limits on employment and professional licenses.

Although federal and state law provides for pardons as a way (at least in theory) to remove these burdens from people who have been rehabilitated and

no longer pose any threat of recidivism, few people apply for this type of relief – even in states which grant a high percentage of pardon applications. Margaret Colgate Love – the Justice Department’s pardon attorney in the Bush I and Clinton administrations, and now NACDL’s and the ABA’s leading expert on the subject – is on a mission to change that. Her *Resource Guide* is a very good start.

The book is divided into two parts. The first part is a 96-page summary and analysis of the ways the federal government, states, District of Columbia, and Puerto Rico continue to punish people after they have served their sentences – and the various forms of relief these jurisdictions have devised. The book focuses mostly on pardons – the most widely available and under-utilized form of relief. It also discusses, however, judicial expungement (available in more than half the states), sealing, and set-asides.

One thing is clear from the book’s analysis of collateral consequences: Some jurisdictions are much more forgiving than others. On the more positive end of the spectrum are Vermont, Maine, and Puerto Rico, where even prisoners do not lose the right to vote. Florida, Kentucky, and Virginia occupy the other end of the spectrum. These states disenfranchise all felons for life. Most states fall somewhere in between. For example, 16 states prohibit prisoners from voting, but automatically restore the franchise as soon as a citizen is released from custody.

While all jurisdictions provide at least one way (the pardon) for people to obtain relief, pardons are rare in some states, while others grant most applications. The difference has mostly to do with the degree to which the pardon process has been politicized, as reflected in law, practice, or both. In jurisdictions where the governor (or in the case of the federal government, the president) has the unregulated power to grant par-

dots, the fear of political fallout gives former inmates about as much chance of receiving a pardon as they have of being struck by lightning. But in jurisdictions where the pardon power resides with an independent board (such as in South Carolina, where 60-70 percent of applications are approved), the prospects for relief are real. Surprisingly, few people apply for pardons, even in states that regularly grant a significant proportion of pardon applications each year. It is unclear why this is so. To the extent that one contributing factor is that few people understand the process, this *Resource Guide* could make a significant difference.

The second and much longer part of the book consists of two appendices. The first contains tables which make it easy to compare the burdens that various jurisdictions place on ex-offenders, as well as the different ways they have devised to provide relief. The tables that compare the different models for exercising the pardon power also show how many pardon applications were submitted in each jurisdiction in 2004 and how many were granted.

The second appendix (which constitutes approximately two-thirds of the book) lists for each jurisdiction the rights affected by a criminal conviction, including pertinent statutory references, as well as an explanation of which rights are automatically restored (and if so, how that process works). This appendix also lists the types of protection ex-offenders have from discrimination in licensing and employment, as well as the restrictions ex-offenders face in employment and licensing. Moreover, the second appendix sets out the mechanisms through which ex-offenders may apply for relief when rights are not automatically restored. For each mechanism, the *Resource Guide* provides the statutory authority for the relief, a description of how the process is administered, a list of eligibility requirements, and an explanation of the nature of relief provided.

Love makes a convincing case that the defense bar could do much more to help clients once they have completed serving their sentences. More important, she provides us with a useful tool to begin that process. The one downside to the book is that there are numerous typographical errors. Hopefully, similar mistakes do not affect the accuracy of the many citations to statutory and other authority. We did not find any errors when we spot-checked the Pennsylvania section. While the publisher's editorial staff can be criticized for allowing these minor defects to slip through, they do not undermine the importance or usefulness of this book. It should be in the library of every criminal defense attorney interested in helping clients successfully reintegrate into society after they complete their sentences. But this book is not only for attorneys. Former prisoners, their families, and lay counselors will also find the *Guide* a useful resource. ■

About the Reviewers

Alan Ellis is a past president of NACDL specializing in federal sentencing, prison matters, and postconviction remedies with offices in the San Francisco and Philadelphia areas. He has been invited to Jiatong University School of Law, in China, this fall to teach and train on *American Criminal Law and Its Constitutional Protections* on a Fulbright Senior Specialist grant. He will be the first American criminal defense lawyer invited by the Chinese to do so.

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