

NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

Task Force on Restoration of Rights
and Status After Conviction

Chicago, Illinois

Day 1

TRANSCRIPT OF PROCEEDINGS had in the
above-entitled matter at Mayer Brown, LLP,
Suite 3200, 71 South Wacker Drive, Chicago,
Illinois, on Thursday, the 20th day of October,
A.D. 2011, at 1:45 p.m.

BEFORE: THE TASK FORCE COMMITTEE:

MR. RICK JONES, Co-Chair;

MS. VICKI YOUNG, Co-Chair;

MS. ELISSA HEINRICHS,

MS. MARGARET LOVE,

MS. PENELOPE STRONG,

MS. GENEVA VANDERHORST,

Members.



1 ALSO PRESENT:

2 NATIONAL ASSOCIATION OF CRIMINAL
3 DEFENSE LAWYERS,
4 (1660 L Street NW, 12th Floor,
5 Washington, D.C., 20036,
6 202/465-7623), by:

7 MR. NORMAN L. REIMER,
8 Executive Director;

9 MS. ANGELYN C. FRAZER,
10 State Legislative Affairs Director;

11 MR. OBAID KHAN,
12 National Affairs Assistant.

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15 REPORTED BY: PATRICIA ANN LAMBROS,
16 C.S.R. No. 84-1790.
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1 CO-CHAIR JONES: All right. So let me just
2 start by introducing myself and have my
3 colleagues introduce ourselves. We are really
4 not going to stand on ceremony this morning, this
5 afternoon, actually, because we are running a
6 little bit behind. We want to have as much time
7 to spend in conversation with the Congressman as
8 is possible.

9 I would just say at the outset that we
10 are very pleased to be here in Chicago to open
11 these hearings as all of you I'm sure know
12 because you've probably had conversations with
13 Angelyn, among other folks.

14 We are a Task Force from the National
15 Association of Criminal Defense Lawyers going to
16 spend the next probably 18 to 24 months going
17 across the country, looking at the question -- in
18 all sort of geographic regions of the country,
19 looking at the question of reentry, restoration
20 of status and rights for folks who have criminal
21 convictions, whether or not really they have ever
22 been even incarcerated, but all the barriers and
23 challenges that are faced and all the hurdles
24 that are posed to folks who are trying to



1 reenter, reinitiate themselves, reintegrate
2 themselves into society and become productive,
3 solid citizens and all the challenges and all the
4 barriers and all the hurdles that they face in
5 that quest.

6 My name is Rick Jones. I am from New
7 York City. I was a member of the Board of
8 Directors of NACDL for two terms and now serve as
9 Parliamentarian. Rather than have me introduce
10 my colleagues, I will let them introduce
11 themselves, and then we will sort of go forward
12 with the questioning and also to ask
13 Congressman Davis to give us the benefit of his
14 thoughts in some opening remarks.

15 MS. VANDERHORST: My name is Geneva
16 Vanderhorst. I practice in Washington, D.C., for
17 nearly 15 years, all criminal defense. And I am
18 starting my second term on the Board of Directors
19 for the National Association of Criminal Defense
20 Lawyers.

21 MS. LOVE: My name is Margaret Love. I also
22 practice in Washington, D.C., mostly executive
23 clemency, but also corrections and sentencing
24 law. I spent 20 years in the Justice Department,



1 last head as pardon attorney of the United
2 States, so I have a particular interest in
3 executive clemency issues.

4 CO-CHAIR YOUNG: My name is Vicki Young.
5 I'm a criminal defense attorney in the San
6 Francisco Bay area. I mainly practice in Federal
7 Court. I served two terms on the NACDL Board of
8 Directors. And I am now no longer a Board
9 member.

10 MS. STRONG: My name is Penny Strong. I am
11 on my second term as a Board member for the
12 National Association of Criminal Defense
13 Attorneys. I practice criminal defense and
14 employment civil rights law in Billings, Montana,
15 and I have a background in public defense as well
16 as in prison reform.

17 MS. HEINRICHS: My name is Elissa
18 Heinrichs. I am a criminal defense attorney. I
19 practice outside of Philadelphia. I am starting
20 my first term on the Board of Directors of
21 NACDL.

22 CO-CHAIR JONES: The only thing I would say
23 in addition before I stop talking and turn the
24 floor over to the Congressman is that the one bit



1 of ceremony I think it is important and right to
2 say is we certainly want to thank Mayer Brown for
3 their gracious use of their facilities and this
4 conference room over the two days that we are
5 going to be conducting these hearings. We
6 appreciate and are pleased to be here and to
7 launch our Chicago hearings and our hearings
8 generally at this law firm.

9 And also, it would be I think remiss
10 if I didn't thank the staff of NACDL, Norman
11 Reimer, the Executive Director; Angelyn Frazer
12 and Obaid Khan who have been the staff members
13 who have worked really tirelessly on behalf of
14 it. It takes a lot to pull this off. And we
15 have some phenomenal folks, starting with the
16 Congressman this afternoon, who are going to be
17 speaking with us over the next couple of days,
18 and so the work that they have done should hardly
19 go unrecognized.

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1 PANEL 1

2 WITNESS:

3 Congressman Danny Davis, Illinois 7th District

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5 CO-CHAIR JONES: And with that, Congressman,
6 we are pleased and honored to have you here with
7 us. And I would like to now give you the
8 opportunity to share your thoughts with us, and
9 after that, what happens is we will have a few
10 questions that we would like to follow up with
11 you on.

12 CONGRESSMAN DAVIS: Well, thank you very
13 much.

14 And let me first of all thank the
15 National Association of Criminal Defense
16 Attorneys. Of course, we also appreciate Mayer
17 Brown, and we always knew them for years as
18 Mayer, Brown & Platt, but people change their
19 names, law firms change their names. They take
20 on other partners and other affiliations.

21 But I really want to thank all of you
22 for being here, being a part of this process. I
23 can't tell you how excited I am about it because
24 the mere fact that your organization, criminal



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1 attorneys and criminal defense attorneys decided
2 to establish such a Task Force, I feel pretty
3 much like I did a few weeks ago when I was down
4 at the Federal Courthouse with Chief Judge
5 Holderman and eleven justices, all in their
6 robes, who were celebrating the first year
7 anniversary of their Second Chance program that
8 they had instituted. And they only had five
9 graduates in the program, but all eleven of the
10 judges were there, the justices were present, and
11 they all seemed excited about it.

12 And then just earlier this week, we
13 had an all-day activity where Chief Judge Tim
14 Evans and Judge Paul Biebel, who is the Head
15 Judge of the Criminal Court in Cook County, were
16 both at discussions we held talking about the
17 whole business of what criminal justice actually
18 means and whether or not individuals who have
19 been convicted or accused of whatever and have a
20 criminal record, how they might be able to work
21 their way back into society as productive
22 citizens. And it warms my heart to see this
23 discussion move to that level.

24 I won't bore you with any of the



1 things that you already know, and that is how we
2 view justice and how we view compensation for
3 noncompliance with our rules and regulations and
4 laws.

5 Sometimes, we use that a person is
6 sentenced for a lifetime in terms of the impact
7 of having been convicted of a crime, and
8 sometimes, not even having been convicted, just
9 having been accused of a crime.

10 There is a tremendous waste of
11 resources in terms of the individuals who never,
12 ever are able to work their way back into the
13 work force. And not only do we miss what they
14 could produce, but we continue to assist them for
15 the rest of their lives.

16 The amount of misery that they cause
17 our society, the amount of misery that they cause
18 for all of the individuals who are intimately
19 associated with them in any kind of way could not
20 be valued.

21 I mean the 2.3 million people who
22 currently are incarcerated, those who are on
23 probation and parole, meaning that we probably
24 have five, six, seven, eight million people in



1 some category, some state of difficulty, many of
2 whom quite frankly will never, ever work again in
3 a productive way because nobody will hire them.

4 Two of the big issues that I think
5 that we are confronted with -- three, quite
6 frankly, and I'm done -- one is the whole
7 business of criminal records following a person
8 forever and the way society will look at that
9 relative to what kind of interaction are we
10 prepared to have for that individual or those
11 individuals afterwards.

12 The second point is how do we as a
13 society view individuals who have been convicted
14 of a crime. How do we just view them in terms of
15 whether or not there is a level of desirability
16 or whether or not they are paying forever for
17 something.

18 And then the other question is who is
19 willing to take a chance on hiring them, I mean
20 who is willing to say, notwithstanding the fact
21 that you had all of these problems, you've done
22 all of these things, I am still going to take a
23 chance and provide you with the opportunity to
24 work.



1 And so I think exploring these issues
2 at this level, we have made a little bit of
3 progress, you know. We have gotten the Second
4 Chance Act passed. We have done some other
5 things. We've gotten some executive orders
6 coming from chief executives of different
7 cities. We've gotten some executive orders from
8 states.

9 But I never wanted to be in a position
10 where I get to the basement and think that I'm in
11 the penthouse, and so although we've made some
12 progress, we have a long, long, long way to go.

13 So I thank you all for being here, for
14 coming to Chicago. We are always delighted when
15 anybody comes to Chicago for any purpose, it
16 doesn't matter, but the purpose for which you are
17 here I think is a tremendously great one. And we
18 always say for the Chamber of Commerce, we are
19 glad that you brought your credit cards along, so
20 thank you very much.

21 CO-CHAIR JONES: Well, I will tell you that
22 we are here, but the weather didn't make it
23 friendly or easy for us to get here, but we are
24 here, and we are happy to be here. I appreciate



1 your thoughts.

2 You answered one of the questions that
3 I had, which is the status of the Second Chance
4 Act. But if you could just tell us a little bit
5 about what the Second Chance Act is and what it
6 does and why you believe it was so important.

7 CONGRESSMAN DAVIS: Well, what it really
8 does is it defines in a way the concept that
9 individuals can experience rehabilitation. And
10 there are many people in our society who just
11 don't believe that people do experience it.

12 What it really does is it provides
13 resources for states, research institutions,
14 correctional organizations, not-for-profits, and
15 faith-based groups to work with individuals who
16 have completed, in most instances, their
17 sentences and are trying to work their way or
18 find their way back.

19 And, of course, the appropriation that
20 we have been able to get has centered around the
21 \$100 million per year since the legislation was
22 passed, but we have challenges with it this
23 year. It went down to the Senate, zeroed the
24 entire program in terms of the money for it. We



1 don't think that's the way things are going to
2 be.

3 The House did recommend I think
4 \$71 million which is less than the 100 million
5 that we had had, but quite frankly, in addition
6 to that, there are lots of other Second
7 Chance-like activities that are funded by Federal
8 governments, state governments, foundations,
9 municipal governments, and county governments,
10 and so there has been this movement.

11 The Second Chance has sort of opened
12 the door for that. It was bipartisan. It had
13 the support of the former President of the United
14 States, President Bush, who had had sort of some
15 problems with personal behavior and who
16 recognized that people could come back.

17 I never will forget one conversation
18 that I had with him when we were advocating and
19 trying to get the legislation passed. And he
20 said, Well, you know, we've really got to get
21 these faith-based institutions involved. They're
22 very good at helping people. He says, They
23 helped me with my drinking when I had a problem.

24 And so there are many different



1 approaches to this, but we incrementally I think
2 have begun to look at it a different way and are
3 looking for ways that we can make it work.

4 CO-CHAIR JONES: You are the first speaker,
5 the first person we have had an opportunity to
6 interact with as a Task Force on this journey
7 that we are about to take around the country to
8 really dive into this.

9 And I want to sort of have you frame
10 this in the sense for us as we start this
11 undertaking. You talked about three things:
12 criminal records, and that people's criminal
13 records following them around for a lifetime, how
14 people are viewed as a result of a conviction or
15 even an arrest as you've accurately stated, and
16 then who will take a chance on these folks.

17 And, you know, I know a little bit
18 about the opportunities and the options for
19 restoration in the State of Illinois. And as a
20 policy-maker, as a legislator on a national
21 level, as a person who is the sponsor of this
22 Second Chance Act, I really want to get your
23 sense on attention that seems to be existing in
24 this area, attention that seems to, you know, be



1 sort of discussed in some of the literature in
2 this area, and that is what the right road is
3 when we think about restoring people's rights and
4 status in society.

5 And the tension is really between
6 forgetting, as they call it, and forgiveness,
7 right? And forgetting means things like
8 expungements and pardons and mechanisms to some
9 of the words used in some of the literature is to
10 obliterate the person's prior history from
11 anybody ever knowing about it to the end of the
12 world, amen, and so that they can go on as if it
13 never happened. And that's sort of some of the
14 mechanisms in place for forgetting.

15 But then, there is this notion of
16 forgiveness. And that comes more in the form of
17 some of the things that you talked about with
18 respect to certificates of relief from civil
19 disabilities and certificates of good conduct in
20 saying that even though you had this history,
21 even though these things happened to you in your
22 past, you have been rehabilitated. We now, you
23 know, determine that you are a person of -- I
24 hate to say, you know, good moral character, but



1 you are a person now who has overcome their past
2 and should be hired, should be allowed to have
3 housing, should be allowed to, you know,
4 reestablish connections with your family and your
5 children and all those kinds of things.

6 And as a society, what paths should we
7 be going down? And as we think about making
8 recommendations to folks like yourself, coming
9 out of this Task Force, should we think and focus
10 on forgetting and pardons and those kinds of
11 things, or should we be thinking about creating a
12 society where there is actual forgiveness and
13 understanding the whole person and then
14 nonetheless giving them the opportunities to
15 restore themselves to society?

16 CONGRESSMAN DAVIS: Well, I think that we,
17 as a society, like the framers of our
18 Constitution have said, they wanted to form a
19 more perfect union. It didn't mean that what
20 they were forming was perfect, nor did it mean
21 that it was going to ever take place, but they
22 sort of suggested that they wanted to be in
23 pursuit of it.

24 I maintain that everything has a



1 philosophical beginning. We practice many forms
2 of religion in our country, but to a large
3 extent, we are a Christian nation. And I don't
4 have any problem with any of the other
5 religions. As a matter of fact, I have a
6 tremendous amount of respect for most of them
7 that I'm aware of.

8 But at the base of Christianity is
9 this concept of redemption. I mean at the base
10 of it is the idea that there can be redemption.
11 I mean I think of some of the songs that people
12 sing. You don't believe I have been redeemed.
13 Follow me down to Jordan stream. I'm coming up,
14 meaning that I've been down, but I'm moving
15 upwards.

16 If we have this redemptive notion,
17 then it would say to me is that we believe that
18 people can be transformed, that is that there can
19 be behavior modification.

20 Also, if you look hard enough, we will
21 find that many of the individuals, for example,
22 who have been incarcerated, many of the
23 individuals who violated laws and were arrested
24 and convicted, some of them really didn't have a



1 whole lot of social value functions. You know,
2 some guy got smoking reefers three times, you
3 know, it doesn't necessarily mean that he has
4 just a terrible moral character. Or some person
5 who got caught shoplifting because they didn't
6 have Similac for their baby, or they saw a little
7 pretty piece of ribbon that they wanted and
8 didn't have the resources to get it, and so I
9 think we have to be able to separate to the
10 extent possible who we're talking about and what
11 they have done.

12 Or a person who might be driving their
13 automobile and didn't have any insurance, and
14 they get themselves involved in a crash or a
15 wreck or whatever, I don't think that's the same
16 as being a bank robber I'm saying, so I think
17 there are a lot of different categories of people
18 that we sort of want to look at and should look
19 at and be in a position to make the appropriate
20 decisions.

21 Like I try and get people to employ
22 individuals who have been incarcerated, but I've
23 never tried to get a day care center to hire sex
24 molesters, you know. I mean I have never tried



1 to get a bank to hire as a teller somebody who
2 got convicted of bank robbery.

3 So I think there are ways to sort of
4 ferret out who is who and then make appropriate
5 decisions.

6 We talk a great deal about record
7 expungement, but we talk more about it than is
8 actually happening. Even chief executives who
9 are in agreement with doing it, they still have
10 some political feelings. They are afraid that if
11 they do too many of these, they'll be viewed as
12 being soft on crime, and, of course, that their
13 political opponents will use this against them,
14 and so they are willing to do a few, but not
15 willing to do those that have been recommended,
16 say, by panels or prisoner review boards.

17 And I mean I've testified for a number
18 of people who have been trying to get their
19 records expunged. And some of the things for
20 which they were tried, convicted, and have a
21 record are just unbelievable.

22 I mean it always comes to mind, the
23 young woman who has a doctorate's degree from the
24 University of Illinois, and she had gotten into



1 an altercation on behalf of her boyfriend at a
2 football game, and she couldn't get a teaching
3 certificate because she had a conviction and she
4 couldn't do a lot of things.

5 And she was one of the brightest
6 people that I've known, and rational, logical,
7 but she and her boyfriend had gotten into this
8 altercation with the security guard at a football
9 game, and they were charged with disturbing the
10 peace. And she did I guess what people call plea
11 bargaining, well, yeah, I did get that they got
12 supervision, but it's still in the record.

13 CO-CHAIR JONES: Congressman Davis, there is
14 never enough time whenever we do these things.
15 And we have a full day of hearings ahead of us.

16 I want to really thank you for taking
17 the time out of your day to come in here and open
18 these hearings up for us and to speak to us and
19 give us the benefit of your thoughts. We greatly
20 appreciate it.

21 CONGRESSMAN DAVIS: I appreciate you're
22 thanking me, but I really thank you and the panel
23 more. I thank you because traditionally, people
24 look at law enforcement a certain way, lots of



1 people do. And the fact that you with all of the
2 expertise that you have, all of the experiences
3 that you have, that you're willing to take this
4 on as a task to the extent of establishing a Task
5 Force, I mean it just kind of makes my day. And
6 I'm delighted to be here.

7 CO-CHAIR JONES: You made ours.

8 CONGRESSMAN DAVIS: Thank you very much.

9 CO-CHAIR JONES: Thank you very much,
10 Congressman. Thank you.

11 CONGRESSMAN DAVIS: Thank you. Be

12 (WHEREUPON, a recess was had.)

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1 PANEL 2

2 WITNESSES:

3 Judge Paul Biebel, Presiding Judge, Cook
4 County Circuit Court, Criminal Division;
5 Jorge Montes, Attorney.

6
7 CO-CHAIR JONES: All right. So let's get
8 started.

9 We have got our second panel, and we
10 really do want to try and stay as close to on
11 schedule as we can. And we have just a wonderful
12 lineup of folks and lots of questions and lots
13 for us to learn, so let's get started.

14 Our second panel consists of Judge
15 Paul Biebel. And I hope I don't butcher
16 anybody's name. Judge Biebel is a Presiding
17 Judge at the Cook County Circuit Court, Criminal
18 Division.

19 We have also got Jorge Montes. And
20 Mr. Montes is the former Chair of the Illinois
21 Prisoner Review Board. He was appointed to the
22 Board by Governor Jim Edgar in October of 1994,
23 and he is also a practicing attorney, as I
24 understand it.



1 Gentlemen, the way that the Task Force
2 operates is that we want to give you both an
3 opportunity to share your thoughts with us, take
4 five or so minutes to give us the benefit of your
5 opening thoughts, after which we have lots of
6 questions for you.

7 And the way that we do our questioning
8 is that one of our Task Force members sort of
9 leads the questioning, and then if we have time
10 at the end, the rest of us will sort of ask, you
11 know, whatever questions we might have.

12 But for the purposes of this panel,
13 Margaret Love is going to lead the questioning,
14 and so I'm going to turn the floor over to the
15 two of you. You can decide whoever you want goes
16 first, give us the benefit of your comments, and
17 then we'll have some questions.

18 JUDGE BIEBEL: Thank you.

19 I'm Paul Biebel. I'm the Presiding
20 Judge at the Criminal Courts here, 26th and
21 California, Chicago, which is the largest
22 municipal criminal courthouse in the United
23 States.

24 As presiding judge, I not only run the



1 operations of the court, but I'm also involved
2 very actively in what you're talking about
3 today.

4 In the last ten years, I have done
5 approximately 40,000 expungements or sealings in
6 chambers. We hear them every day in my court.
7 We have two afternoon calls on Tuesdays and
8 Thursdays every week where other judges hear
9 these. I've done certificates of innocence,
10 certificates of relief from disabilities,
11 certificates of good conduct --

12 THE REPORTER: I'm sorry, Judge.

13 JUDGE BIEBEL: Oh, I didn't know we had a
14 court reporter.

15 CO-CHAIR JONES: I guess I should tell you
16 guys, this is all --

17 JUDGE BIEBEL: I didn't know we had a court
18 reporter.

19 Certificates of innocence,
20 certificates of relief from disabilities, and
21 certificates of good conduct, so I think I come
22 at it as someone who hears these cases every day
23 and somebody who -- I want to make reference
24 today to Margie Love who we have gotten to be



1 friends over the years because we have been
2 involved in these same issues, her largely
3 radical modern article we have been referring to
4 today.

5 I think the thing that sticks out, it
6 was early in Ms. Love's article, she talks about
7 the fact that 20 million Americans have felony
8 convictions. And if you consider that twice as
9 many perhaps have misdemeanor convictions, that
10 adds up to 60 million Americans, one out of five,
11 who have convictions.

12 And in my experience, I find that
13 somebody who has a record really has a very, very
14 difficult time getting on with their lives, get
15 jobs, maintain jobs.

16 Darrell Langdon, who is the subject of
17 Ms. Love's article, was a person that was in
18 front of me. As a Judge -- and I'm going to use
19 the word that Congressman Danny Davis used -- by
20 the way, I was in his panel on Monday, and I
21 spoke on mental health issues and drug issues
22 which really interrelate to everything you're
23 doing here, affects these issues, is the notion
24 of redemption.



1 And people come to me, seeking to have
2 redemption. Have they changed their lives. I am
3 statutorily prohibited from giving relief in
4 certain areas, crimes of violence. I can't give
5 expungements if there is any convictions under
6 Illinois, but I hear moving stories every single
7 day.

8 I had a woman this morning who had a
9 heroin background, had about six arrests, a
10 couple of convictions, just got her Master's
11 degree, starting her Ph.D. in psychology.

12 I have had people who come in, it
13 moves you to tears to hear the statements that
14 people make because I want them to articulate to
15 me and to the persons in the room why I should
16 give them the relief they request.

17 Most of what we do are expungements
18 and sealings, thousands a year. And I know that
19 at least one person who is here today, Beth
20 Johnson, from Cabrini Green, who is also the
21 subject of that law review article, she
22 represented Mr. Langdon.

23 But I find that it really, really does
24 ruin lives. A young person, 17, 18 years old,



1 gets a record. It's awfully hard to dig out from
2 that.

3 What we can do is in effect say to
4 whomever, we believe these are people who deserve
5 relief from this court. And I tell you this: I
6 am rigorous in my examination of these people.

7 I had a person yesterday with a racial
8 issue. I referred him to an inner city priest
9 for his moral authority form.

10 I had a person who came in who had
11 domestic violence issues. I ordered that he go
12 to watch Domestic Violence Court -- we do have a
13 courthouse here in Chicago -- to sit through a
14 day of listening to domestic violence cases. And
15 when this has happened, people have changed their
16 lives.

17 As a man said to me, when I focused on
18 the fact that I have daughters, I realize I
19 wouldn't want my daughters treated the way I
20 treated my wives, two of them.

21 We try to move people toward a new
22 life, move people toward realization that
23 somebody can be there to say in effect, I think
24 you've redeemed yourself.



1 So in that regard, it touches my soul,
2 it touches the soul of those in my media to do
3 it. At the same time, it's a drop in the bucket
4 when you think that 60 million people have
5 convictions, not just arrests -- realize, arrests
6 can create problems, too. They're out there.
7 They're a matter of record.

8 So what you're doing is very
9 praiseworthy, and I look very much to see what
10 you ultimately conclude as you go around the
11 country.

12 Thank you very much.

13 CO-CHAIR JONES: Thank you.

14 MR. MONTES: Thank you very much.

15 I'm Jorge Montes, the former Chairman
16 of the Prisoner Review Board and currently in
17 private practice. I'm honored to be on a panel
18 with Judge Biebel because he is one of the judges
19 that I think really gets it.

20 And I dare to say he is one of the
21 finest if not the finest chief judge of the
22 criminal section that this county has ever had.
23 And I'm not saying this to schmooze him because I
24 don't practice before him as a rule. And so I'm



1 delighted to see that he is here, giving his
2 thoughts on this topic as well.

3 I'm very encouraged and excited to see
4 that your association is involved in this area as
5 well. We I say because I indirectly also am
6 involved in handling clemency matters or even
7 directly in clemency matters, et cetera, benefit
8 from people who will hire us for representation.

9 And I've learned that we can make a
10 good living in this area, unfortunately, due to
11 the circumstances. And so that the association
12 has taken interest in not only taking it to the
13 community but now finding ways to give back to
14 this community that desperately needs our help.

15 We continue to see that this community
16 swells. Every day, it continues to grow by leaps
17 and bounds. And the mechanisms for relief of
18 collateral from the consequences of conviction
19 continue to be stagnant.

20 And actually, in my mind, having been
21 on the Board for 16 years, and six of them as the
22 Chairman, almost shrinking in Illinois. And I am
23 delighted to be here also because now as a former
24 Chairman of the Prisoner Review Board, I think we



1 kind of throw a few grenades and run without any
2 political hopefully consequences.

3 And so I'd like to -- I don't want to
4 be too pessimistic, but I do want to dwell on
5 some of the shortcomings of what we currently
6 have.

7 And Illinois is one of the enlightened
8 states with certificates. I can't imagine how
9 the other states are faring.

10 But I want to focus on two areas
11 briefly, and I know we have only five minutes,
12 and that is clemency was one of my favorite areas
13 of practice as Chairman of the Parole Board and
14 on the Parole Board. And I unfortunately think
15 that it's a very weak program in the State of
16 Illinois, and that we should be looking for ways
17 to encourage not only the Governor here, but
18 governors all around the country to take
19 leadership in this area.

20 This is one of the only real forms of
21 relief, a very dramatic relief, more than any
22 other form of relief, a pardon -- in Illinois,
23 you get to ask for a pardon and an expungement at
24 the same time, and the Governor could give one or



1 the other -- give a pardon without the
2 expungement or with the expungement, but we don't
3 see enough leadership in this area.

4 It's a no-win situation for most
5 governors, for all governors, so they have got
6 their finger in the air, see which way the winds
7 are blowing. If he's going soft on crime, there
8 will be consequences, et cetera.

9 One of my favorite stories about
10 Huckabee when he was running for president and he
11 had forgiven somebody in Arkansas, that
12 individual went and committed two murders in
13 Missouri.

14 And when asked about it, he stood up
15 and said, This was the right thing to do at the
16 time, and we don't know human nature.

17 And that's real leadership. That's
18 political leadership. And I don't think we see
19 enough of it with any other governors, with very
20 few exceptions, maybe Patterson, maybe Ehrlich in
21 Maryland, a few others.

22 But so we would like to see more
23 leadership. And we need to give these governors
24 cover. And how do you give them cover? Well,



1 you fortify your clemency programs. And that's
2 one of the things that I was setting out to do
3 with the help of gurus in this area such as
4 Margaret, Margaret Love, and fortifying the
5 program so that you give the governor good cover
6 or the president cover.

7 In Illinois, we don't do enough
8 background investigation even now. We don't have
9 the funds to hire detectives or private eyes or
10 whatever to go do background checks and
11 investigations on individuals petitioning, so we
12 rely strictly on the petitioners coming before us
13 and thinking they were telling us the truth. I
14 implemented fingerprints, a few things like
15 that.

16 But if we're going to give governors
17 cover, we are going to have to fortify all of
18 these programs, clemency programs.

19 And second, we should also be looking
20 to encourage governors to go a little faster
21 because in Illinois, in particular, we have a
22 backlog probably around the vicinity of 3,000.
23 Most of that is not the current governor's fault
24 because his predecessor, Blagojevich, just sat on



1 them frankly, didn't decide these cases. It's a
2 no-win situation, and he had no rush to do
3 these.

4 But I think it all goes back to the
5 whole notion that Congressman Davis and Chief
6 Judge Biebel have remarked on, the whole notion
7 of redemption. I think if governors understood
8 that this has to do with redemption and restoring
9 somebody to good citizenship, they would move on
10 them a little faster.

11 Here in Illinois, we have a very large
12 backlog, and there's got to be a way to move it a
13 little faster. Instead, they are implementing
14 here a few more layers. Maybe some of that is
15 good because it gives the governor cover, but
16 it's going at a slower rate.

17 And governors I think should be also
18 encouraged to do this because it's their
19 obligation. They ought to see it as one of the
20 things they do as governor, that it's risky, but
21 it's an obligation.

22 The second area I want to cover in a
23 minute is the whole idea of the area of
24 certificates. In Illinois, they haven't taken



1 off in the last six years that they were
2 implemented. I was there at the birth of the
3 certificate program. And I have worked hard with
4 various organizations to expand certificates, and
5 they've grown in significance, but it's very
6 disheartening to see that they have not grown the
7 way we thought they were going to grow.

8 In Illinois in particular, the program
9 was co-opted somewhat by the political process
10 and ended up going from the Prisoner Review Board
11 over to the courts which, in this case, because I
12 believe so much in Judge Biebel, that I know
13 they're in good hands.

14 However, there is some pros and cons
15 to having the certificates in the courts.

16 First of all, they don't promote the
17 certificates the way the Prisoner Review Board
18 used to promote them, so while the numbers aren't
19 incredible, we had, in the course of three years,
20 about 100 certificates.

21 Well, I understand -- and the Judge
22 can correct me -- that in the last two years
23 roughly that the courts have had them, there has
24 only been about ten if I'm not mistaken,



1 certificates of good conduct.

2 So that there isn't -- the courts are
3 not in the business of promoting these things,
4 but the Parole Board actually participated in
5 expungement workshops. We went all around the
6 different states promoting these aggressively,
7 and we thought that's why we were getting more
8 people interested.

9 Also, the Parole Board was a one-stop
10 shop where they came to the Parole Board, and
11 they didn't have to go from county to county if
12 they had different arrests or convictions in
13 different parts of the state, so it was a
14 one-stop-shop idea.

15 And if they needed attorneys, we had
16 pretty flexible rules that I don't think the
17 courts would object to, which is a good and bad,
18 I suppose, but that means that we were able to
19 award more of these, a little bit more of these.

20 With that, I'll stop.

21 CO-CHAIR JONES: All right. Thank you very
22 much.

23 Margie?

24 MS. LOVE: Well, I can see that we are going



1 to be learning a lot from this panel. A lot of
2 questions just arose in my mind. But I'd like to
3 go back to the question that Rick asked
4 Congressman Davis in the very beginning and ask
5 you both, this tension between forgiving and
6 forgetting, as a kind of a conceptual thing --
7 and actually, Rick, I have to say pardons are in
8 most jurisdictions, and in the Federal system,
9 they are a forgiving kind of thing because there
10 is no expungement in the Federal system, for
11 example.

12 But if part of this Task Force's
13 responsibility is to recommend an ideal form of
14 recognizing redemption, as it were, or enabling
15 somebody's redemption to be recognized, would you
16 say that we should be focusing on forgiving or
17 forgetting as a remedy?

18 Judge Biebel, what do you think?

19 JUDGE BIEBEL: The question is who is
20 forgetting. One of the big issues you know, of
21 course, is if I grant an expungement, there are
22 records out there that say that person has been
23 arrested and perhaps convicted. So if I expunge
24 it and the record is destroyed, the FBI still has



1 that information.

2 Employers who have sophisticated
3 backgrounds will find out in 2006, there was a
4 case against me, for example, a lawsuit, you
5 know, so you have that issue.

6 I struggled with this issue.
7 Particularly under Illinois law, you can't have
8 any convictions for an expungement, but you can
9 have some convictions for sealings. And I can do
10 partial sealings as I did only today.

11 And I said, why am I doing this? And
12 the answer is because I am indicating to
13 whomever looks at it that I found this person is
14 worthy of some relief, and they could take that
15 and move with it if they wish.

16 But I'm not naive. I understand the
17 issues that employers have. Our statutes allow
18 immunity if you hire somebody and they have a
19 certificate of good conduct, a certificate of
20 relief from disabilities, I understand that.

21 But as Congressman Davis said, I also
22 handle sex and violent person cases. You're not
23 going to handle -- you're not going to allow
24 somebody to have some relief so they can go work



1 in a day care center, so it depends. It's a very
2 hard issue.

3 And I agree with Chairman Montes when
4 he says that it hasn't been utilized that much.
5 None of these have. The State's Attorney's
6 Office has a drug court -- I'm sorry -- a drug
7 school that if you finish four weeks of drug
8 school, they will then now in the case, drop the
9 case. Now, I would think out of all those people
10 that come in front of me for expungements, I have
11 seen none. I still think people know about it.
12 As many as we have, a lot of those people are
13 entitled to it.

14 MS. LOVE: And how would you remedy that?
15 It's true that as a court, you can't exactly go
16 out with a loud speaker truck, I suppose, and
17 your colleagues would probably not be very
18 happy.

19 JUDGE BIEBEL: I can't do that. I'm limited
20 in what I can do though. But there are people
21 that work in this area, and one of them is in the
22 back, Beth Johnson, who they go down to
23 Springfield and actively lobby, see that these
24 various statutes can be changed. I am limited by



1 the statutory authority given me. I just don't
2 have the discretion to do whatever I want.

3 And so it's an incremental thing. As
4 time goes on, it becomes -- people become I think
5 more and more aware of the impact that
6 convictions have.

7 Realize for the first time in my long
8 time doing this, you have the Tea Partiers and
9 the liberal Democrats together on one issue.
10 There is too many people in jails and prisons;
11 one, because it's too expensive; the other,
12 because perhaps they shouldn't be there.

13 So I think there is an increased
14 sensitivity to the issue, and that's why this is
15 so important what you are doing, going around the
16 country.

17 MS. LOVE: Let me ask you the same
18 question.

19 MR. MONTES: I was going to say, in
20 Illinois, an expungement means you could actually
21 obliterate your record, which now, in this
22 digital age, doesn't mean a lot because really,
23 you can't forget anymore. We can forgive. And I
24 don't think we have devolved a culture of



1 forgiveness. And I think that we should find
2 ways to think, okay, the notion of forgiveness in
3 this society, that it's okay to forgive, that we
4 forgive our children every day. I'm the proud
5 father of five little girls, and you forgive
6 every day because if we didn't, you would be --
7 doing that, you would be taking vengeance on
8 deeds for what she did last week forever, and we
9 can't do that.

10 So it's not unlike being a parent.
11 Society has to learn to do a lot more forgiving.
12 And, of course, you've got be selective. You've
13 got pedophiles that are dangers, et cetera. We
14 don't ignore that. But we've got to do a lot
15 more forgiving.

16 MS. LOVE: I'd like to ask one more question
17 of you, perhaps of both of you, and then I want
18 to let my colleagues ask you some questions.

19 Who or what would you say
20 institutionally do you consider the criminal
21 justice system as a whole and all the different
22 actors in it, what we're talking about is some
23 notion of official forgiveness. What's the best
24 institutional arrangement for dispensing that



1 forgiveness? What would be most effective?

2 MR. MONTES: Well, certainly, in the
3 clemency arena, the governor granting
4 forgiveness, making it very public, I think these
5 things should be made very public and very
6 ceremonial so that society can see what a sacred
7 thing it is, what a wonderful thing to restore
8 somebody, and that there would be more publicity
9 of these pardons and coming with the authority of
10 the governor would be very powerful.

11 JUDGE BIEBEL: Ms. Love, you make the
12 argument in your article that the role of the
13 judges is a very strong role, and I agree with
14 you because those of us who do this -- and by the
15 way, you should know, I am one of 17 presiding
16 judges out of 430 judges in Cook County in the
17 courts. And the criminal presiding judges are
18 the ones that do this. We have taken this upon
19 ourselves, the responsibility of doing this, and
20 very rarely do we get a lot.

21 If I sign an order, it has some
22 respect as a judge, and maybe it's respect
23 because it's from me. And I think that we
24 realize that because we are employed, we have to



1 run for retention, things like that. And as
2 judges, with background, we have to make a
3 record. And we're careful about how that record
4 is made. And I think every day about the fact
5 that I have a court reporter -- I didn't realize
6 you had one here -- but the court reporter takes
7 down everything we say. And I'm careful in terms
8 of my decision-making.

9 MS. LOVE: You have a question.

10 CO-CHAIR JONES: Let's go to Vicki first,
11 and then we're -- are you done? We will come
12 back to you if you want.

13 MS. LOVE: Let's let others have a chance to
14 ask. I do have one more thing.

15 CO-CHAIR JONES: Okay. Very good.

16 CO-CHAIR YOUNG: Judge Biebel, I wasn't
17 clear when you talk about the applications that
18 are before you, what the breakdown is. Are they
19 felony cases mainly or misdemeanors or --

20 JUDGE BIEBEL: There is more misdemeanors
21 than there are felonies, but a misdemeanor
22 conviction has the same impact. You've got to
23 live with it.

24 CO-CHAIR YOUNG: And then are most of the



1 people that come before you, are they
2 represented -- what sort of process do people
3 have to go through to get the package to you, as
4 it were?

5 JUDGE BIEBEL: There is a help desk in
6 Cabrini Green Legal who is represented by Beth
7 Johnson in the back, assists them at the help
8 desk in putting this together.

9 It's a very tedious process. For
10 example, for expungement, you've got to go to the
11 Police Department in downtown Chicago and have
12 your fingerprints taken. They've got to run a
13 background check. If you've got any convictions,
14 they've got to go to the Clerk's Office and get a
15 certified copy of disposition of those cases.
16 It's very tedious, but I need to have that so I
17 have some comfort.

18 Realize, I'm the decision-maker. If
19 it blows up, whose name is going to be picked,
20 you know, so -- but I took this job to do the
21 right thing. And I've been doing it for 15 years
22 now.

23 CO-CHAIR YOUNG: You've referenced thousands
24 of cases coming through. And then Mr. Montes



1 said, Well, out of that, only 10 were --

2 MR. MONTES: Certificates.

3 CO-CHAIR YOUNG: For certifications, so can
4 you sort of break down --

5 JUDGE BIEBEL: We have different reliefs
6 that we're talking about. Certificates of relief
7 from disabilities, certificates of good conduct,
8 but most used by far is seeking expungement or
9 sealings, by far. And I will do this year 3,000,
10 4,000.

11 CO-CHAIR YOUNG: And what does that
12 expungement or sealing do for the person who has
13 it?

14 JUDGE BIEBEL: If it's an expungement, the
15 record is literally obliterated. It is taken off
16 the records of the Chicago Police and the State
17 Police and the Clerk's Office. It doesn't take
18 it off the record of the FBI.

19 A sealing merely seals the record. It
20 doesn't totally obliterate the record.

21 CO-CHAIR YOUNG: So you sort of have the
22 person's name there, but not what happened?

23 JUDGE BIEBEL: You can't get the record.
24 It's unique to Illinois.



1 CO-CHAIR YOUNG: And with the expungement, a
2 person can say they were never arrested?

3 JUDGE BIEBEL: You can't ask. You cannot
4 ask in employment if they have ever been arrested
5 to start with. Now, you can't ask if they have
6 ever had anything expunged.

7 CO-CHAIR YOUNG: So that is a part of
8 Illinois law.

9 JUDGE BIEBEL: Yes. We're pretty
10 progressive in this area as Chairman Montes said
11 and Ms. Love indicates in her article.

12 CO-CHAIR YOUNG: So you mentioned that it's
13 not getting out that people have these avenues of
14 relief, you know, that they can look at after
15 their criminal case is done. Do you have some
16 ideas of how that information could be
17 disseminated?

18 JUDGE BIEBEL: There are expungement fairs
19 as I think they refer to them that I know that
20 Cabrini Green and the Public Defender's Office
21 are involved with. Nevertheless, you get the
22 person -- I just used a person who is a
23 first-time drug offender who gets his case -- not
24 only because he or she goes to drug school. For



1 some reason, they're not filing expungements, and
2 I don't know what that is. There is a disconnect
3 there, and I don't know why.

4 CO-CHAIR YOUNG: And those people in drug
5 courts, most of them would be represented by the
6 Public Defender's Office?

7 JUDGE BIEBEL: Yes. Basically, yes.

8 CO-CHAIR YOUNG: But the PD's Office knows
9 about this process?

10 JUDGE BIEBEL: I can't speak to that issue.
11 I don't know if the PD's know about this. I
12 don't know.

13 I do know the PD is not involved in
14 the expungement process because it's a civil
15 entity, and they can't by statute in Illinois do
16 that.

17 CO-CHAIR YOUNG: Is there any requirement
18 that either the PD or the criminal judge
19 sentencing the person advise what collateral
20 consequences or remedies might be?

21 JUDGE BIEBEL: Not at this time.

22 CO-CHAIR YOUNG: Mr. Montes?

23 MR. MONTES: Let me just elaborate a little
24 bit on the certificates. I indicated in my



1 opening remarks that the program is co-opted by
2 the political process because in negotiations,
3 whether to expand certificates or not or how they
4 would be expanded to allow more people to apply,
5 the more connections, and a few other good things
6 like making employers -- giving employers
7 immunity so they would not be liable for anything
8 that anybody does who received a certificate,
9 which is wonderful, there were forces that
10 thought I was probably getting too soft on all
11 these issues and didn't really want to see me
12 keep these, me as Chairman of the Board.

13 So I said, okay. We'll allow the
14 expansion if it goes to the courts. And with
15 that went a lot of goodies, the ability to
16 promote them, the ability to process them faster,
17 and some good things. I mean the court's
18 imprimatur on something is a lot more powerful
19 probably.

20 So I mean that's going to be probably
21 the attention you'll see on these certificates,
22 who should keep them, the courts or the
23 administrative body. And there are pros and cons
24 to both.



1 CO-CHAIR YOUNG: And have either of you
2 gotten feedback for the people who have been
3 granted these certificates? Have there been
4 benefits? Has it not changed things? Do we even
5 hear?

6 JUDGE BIEBEL: I didn't. I haven't.

7 MR. MONTES: I haven't gotten any feedback,
8 but I did get an assistant to do a little
9 research on the certificates, how we are coming
10 along this way.

11 We came up with the fact that there
12 have only been ten in the last almost two years,
13 but the different community groups that promote
14 these certificates and were instrumental in even
15 proposing the legislation were like the Safer
16 Foundation here in Chicago. They are all very
17 discouraged about the fact that they are not
18 picking up as well as they should.

19 Part of the promise that they made was
20 that we would get these hot-shot attorneys from
21 firms like Mayer Brown to come out in droves to
22 represent these people, and they are not.

23 CO-CHAIR YOUNG: So there is a process
24 there, but in terms of having assistance and



1 making it through the process, we don't quite
2 have the bodies out there?

3 MR. MONTES: Right. And people are getting
4 lost in the process. They find it a little
5 complicated to do it themselves.

6 CO-CHAIR JONES: Penny?

7 MS. STRONG: Judge Biebel, I have several
8 questions for you.

9 When you hear a hearing on expungement
10 or a sealing or issue a certificate, is it akin
11 to, say, a sentencing proceeding? Do people
12 bring in written documentation? Do you have live
13 testimony?

14 JUDGE BIEBEL: I do all those.

15 MS. STRONG: And this would just vary,
16 according to each case?

17 JUDGE BIEBEL: Yes. If it's a domestic
18 violence case, and they're still involved with
19 that person, I'll get that person, okay? I will
20 have family members there. I will have
21 ministers, members of the person's churches in.
22 And I take letters from people I'm aware of, and
23 I have live testimony from them. As I say, it's
24 pretty complete, depending on what the charges



1 are, or the extent of the record.

2 MS. STRONG: All right. Another question I
3 have for you is you made reference to a
4 certificate of innocence in your opening
5 remarks.

6 JUDGE BIEBEL: When you have a certificate
7 of innocence in Illinois where if somebody has
8 been incarcerated and let's say is remanded at
9 some time for a new trial, and the state decides
10 not to try them again or they try to get them
11 found not guilty, they can file a certificate of
12 innocence.

13 And that means if I find that they're
14 actually innocent, it's their duty to prove by a
15 preponderance of the evidence actual innocence,
16 whatever they have coming statutorily from the
17 court in terms of the monitoring.

18 MS. STRONG: Have you ever issued such a
19 certificate?

20 JUDGE BIEBEL: Yes. I just got reversed by
21 the Appellate Court on one because it was early
22 on in the statute, and I relied on the finding of
23 the trial judge and didn't do an independent
24 review.



1 We have denied them, also. They're
2 very long because you've got to review everything
3 that went on in the case, sit through a couple of
4 trials and their post-conviction hearing. You
5 have got to review all that to see if there is
6 anything in there that's indicative of guilt or
7 indicative of innocence, you know, and I've had
8 to pick up judges to help me with that.

9 MR. MONTES: This culminates in a great case
10 of the state doing the right thing in that the
11 Parole Board had processed a lot of these cases,
12 and they would go to the Governor's Office, and
13 they wouldn't move. They were part of this huge
14 backlog, so then the legislature reacted and
15 said, oh, let's just give it to the courts. That
16 was a good move.

17 CO-CHAIR YOUNG: So they were waiting for a
18 pardon or they had petitioned for a pardon?

19 MR. MONTES: Because under Illinois law,
20 they are required to go before the Parole Board
21 and then for the Governor to issue the pardon on
22 the life of the citizens.

23 And since they were stagnated for
24 years, the legislature came up with the solution



1 and said, Let's just give it to the courts. That
2 was good.

3 JUDGE BIEBEL: I should say that the prior
4 governor ruled on virtually none of them. The
5 present governor, Governor Pat Quinn, is ruling
6 on them. We do see them as they come through
7 because there is a recommendation for
8 expungement, so I have got -- otherwise, there
9 was a conviction, it was not expungeable, so now,
10 it can be expunged, so I see them now coming
11 back. And a lot of it is being done, yes, by
12 Cabrini Green and other lawyers, you know.

13 CO-CHAIR JONES: Geneva?

14 MS. VANDERHORST: I have two areas. I'm
15 interested in Chair Montes' suggestion of
16 providing cover for governors to fortify their
17 clemency system here in Illinois.

18 Specifically, what would you suggest
19 would be adequate cover for the governors?

20 MR. MONTES: I've talked to Margie Love a
21 lot about what she used to do at the Federal
22 level, and it's almost overkill, eight lawyers to
23 the handful of cases. I wish we had that many
24 lawyers signing up.



1 So a lot more background check, a lot
2 more, you know, investigative work where people
3 would go knock on doors to neighbors, talk to the
4 minister, see if that person really has their act
5 together or not. That kind of, you know, real
6 hands-on investigation is really critical so that
7 when the governor makes a decision, this was a
8 very detailed investigation. And if something
9 went wrong, it wasn't because we didn't -- we
10 don't do that here now.

11 MS. VANDERHORST: And the other question I
12 had was for Judge Biebel. Actually, where I
13 practice, when a case gets nolle'd, the judge
14 will order the courtroom clerk to provide that
15 person with a prepared form that explains what a
16 nolle is under our particular jurisdictional
17 laws.

18 Do you all have something like that in
19 Illinois that refers or uses the term expungement
20 so that the client will understand there are
21 other options that they can have in addition to
22 simply walking out of the courtroom?

23 JUDGE BIEBEL: It isn't utilized here, but I
24 will tell you in my experience in my courthouse,



1 people have prior convictions overwhelmingly, so
2 they're not going to be entitled to expungements
3 universally.

4 That's a reality of the felony
5 courthouse. They've got prior convictions,
6 misdemeanor convictions. And unfortunately, a
7 lot of them involves drugs. 50 percent of the
8 people who go through the criminal courts here in
9 Cook County to the state penitentiary, 50 percent
10 are on drug cases.

11 MS. VANDERHORST: So if a person in your
12 example of the drug court system here, when they
13 complete that court, they would be able to get
14 into drug court if they have prior convictions?

15 JUDGE BIEBEL: No. First time only. They
16 might get minor misdemeanor, of course. But it's
17 the first-time felony charge. These are all
18 felonies here.

19 MS. VANDERHORST: So those first-timers
20 would be eligible to get expungements, and
21 they --

22 JUDGE BIEBEL: It just doesn't happen. Yes,
23 a lot of people, they get caught with a small
24 amount of crack, you know. Marijuana would be a



1 misdemeanor here. But otherwise, they have not
2 been in trouble. We don't see them.

3 MS. VANDERHORST: Thank you.

4 MS. LOVE: We talked a little bit about the
5 role of the Public Defender which is limited by
6 statute. What about the role of the DA, how do
7 you see the DA participating in the various kinds
8 of relief that you are responsible for, Judge
9 Biebel?

10 JUDGE BIEBEL: They're not involved in the
11 relief. They are involved in that which can lead
12 to the relief. We have diversion courts going on
13 here in Cook County, and they're increasing, with
14 drug courts, with theft courts. And a lot of
15 cases that otherwise would go to the grand jury
16 directly here -- we have a grand jury system in
17 Illinois -- I go to preliminary hearings, and a
18 lot of those findings are no probable cause, so
19 any part of -- the State's Attorney is doing a
20 good job on that part of it.

21 MS. LOVE: Okay. So for what I would call
22 generically non-conviction records, the DA is
23 more involved in getting cases into that category
24 as opposed to conviction records?



1 JUDGE BIEBEL: That's correct. And we also
2 have an expungeable probation program here. We
3 could put somebody on probation that they
4 completed satisfactorily, let's expunge it.
5 Okay. That adds up -- there is a lot of plea
6 bargaining goes on. 85, 86 percent of our cases
7 are pled. That's pretty much the way it is
8 around the country. And as part of that, they'll
9 agree to expunge with probation.

10 MS. LOVE: So that's what's sometimes called
11 deferred adjudication, so there is not really a
12 judgment entered, there is a plea, but --

13 JUDGE BIEBEL: There is a judgment entered
14 which is vacated later, which is expungeable
15 later.

16 MS. LOVE: Okay. Okay.

17 JUDGE BIEBEL: We do have probation, but
18 it's expungeable. That's all they have.

19 MS. LOVE: What would you recommend because
20 really, Illinois is one of the most enlightened
21 states, frankly. And I hate to rain on your
22 parade of gloom, Jorge, but it really is one of
23 the most enlightened states. And you have a
24 Governor who has actually granted more than 600



1 pardons. That's more than I think probably any
2 other state in the country. Well, perhaps
3 combined if you take out the administrative
4 boards in half a dozen states.

5 JUDGE BIEBEL: True, those findings are
6 usually in individual cases, were not crimes of
7 violence, so it isn't as if if somebody goes out
8 and kills somebody, there is no indication they
9 were ever violent in the past.

10 I mean this is effectively what I do
11 every day. If exposure is -- look at it, I'm
12 exposed every day, but you make the record just
13 like the Governor does. He makes his record when
14 he decides whether he's going to grant a clemency
15 or pardon.

16 MS. LOVE: Your know, when we had our ABA
17 Commission, Governor Thompson was a co-chair of
18 that commission, we used to talk --

19 JUDGE BIEBEL: I served on that, too.

20 MS. LOVE: Yes, you did, indeed. Governor
21 Thompson, I guess, he was pretty blase about his
22 pardon responsibilities. And he said he pardoned
23 a lot of people and he pardoned them all the
24 time.



1 Something happened around 1985 or '80
2 or '85 that really spooked governors nationally.

3 JUDGE BIEBEL: Michael Dukakis.

4 CO-CHAIR JONES: Willie Horton.

5 MS. LOVE: Willie Horton. Well, how could
6 our organization help governors kind of get over
7 it, as they say? I mean I'm frustrated, for
8 example, that our President, who I had tremendous
9 hopes, worked very hard for his election, has
10 done essentially nothing with his pardon power,
11 although he was very complimentary of, who was
12 it, the Steelers who hired Michael Vick, about
13 how, you know, it was so wonderful that they gave
14 him a second chance. And I was thinking, golly,
15 heck, Mr. President, let me have a chance to have
16 a beer with you and let's see if we can't get you
17 to do some of this.

18 How can we encourage chief executives
19 to be more risk-taking, shall we say, or more
20 just simply doing their job?

21 JUDGE BIEBEL: I'm a judge. I'm not going
22 to tell an executive what to do.

23 MS. LOVE: How could we though, just so
24 that -- I mean it is very frustrating because



1 there is a great need there.

2 MR. MONTES: I'm not a judge, so I can throw
3 out a few thoughts on that, and that is we have
4 to, as I said before, give them a lot more
5 cover. Let's give them more cover to go on, and
6 then let's encourage them to be better leaders
7 and by, you know, highlighting great cases of
8 people who turned their lives around and what
9 they're doing with their lives today. There is
10 so many great examples. And I think society will
11 begin to understand that people need a second
12 chance or a third chance.

13 MS. LOVE: One of the things listening to
14 you two talk about what's available in Illinois,
15 it occurs to me that there are a lot of different
16 kinds of relief, and that perhaps if there were
17 more reliance on the courts or certain kinds of
18 relief, and courts do have a level of
19 respectability, institutional capability, that
20 perhaps your Board didn't have, and that then
21 perhaps reserving the governor for the kind of --
22 perhaps have kind of a staging of relief, have a
23 pardon be really, truly meaningful.

24 I mean I'm not sure myself of how I



1 would do it, but does that notion of a variety of
2 different kinds of relief seem to commend itself?

3 JUDGE BIEBEL: We certainly have that here
4 in Illinois, but that being said, I'm still
5 limited particularly with these documents.

6 We have a kind of resolution called
7 supervision which may not be in other states too
8 often. It's basically a delayed not guilty, so
9 they put you on supervision, maybe give you some
10 conditions for a year, and at the end of the
11 year, you've done what they said, it's a not
12 guilty, the case is dropped, but it's
13 expungeable, it's not a conviction.

14 But if you had supervision and a \$20
15 fine in 1989, that's expungeable. In that very
16 same case, if that magic word, supervision,
17 wasn't used and you had a \$20 fine, you had a
18 straight conviction, and I can't give you the
19 relief.

20 Now, perhaps there is a way that after
21 a certain period of time, you can say the person
22 stayed out of trouble, that perhaps you can give
23 relief.

24 I once had a woman in front of me who



1 from 1986 to 1995 had 233 arrests. Why, she was
2 on heroin. And in 1995, she got clean. In 16
3 years, she has not been arrested again. She has
4 gone on. She is productively employed. She is
5 doing really, really well. But a lot of it ties
6 in with drugs. And if you get off drugs, then
7 you can get clean. Then you get clean, then they
8 can go out and be employed as I had a gentleman
9 today.

10 I had a gentleman yesterday from
11 Trinidad whose wife and he were separated. She
12 flew in yesterday from New Jersey just to testify
13 in my room because she felt so strongly this man
14 needed a second chance. And they may never get
15 back together again.

16 These people have qualified for second
17 chances. And if they show it, they are going to
18 get it in my room.

19 MR. MONTES: This scheme that you propose, I
20 think the vision, if we promote a certificate and
21 they grew, allowing equality, then we could
22 preserve these pardons for bigger cases, and that
23 would help.

24 CO-CHAIR JONES: I have a question.



1 Go ahead. You go first.

2 CO-CHAIR YOUNG: Judge Biebel, would you say
3 that most of the cases, it sounds like many of
4 the cases at the Criminal Courts Building are
5 drug cases, but of the petitions and the
6 applicants, certification applications that come
7 before you, are they primarily for drug
8 convictions?

9 JUDGE BIEBEL: Drugs or drug related,
10 prostitution, thefts of one sort or another,
11 shoplifting are some things.

12 CO-CHAIR YOUNG: Do you have any sense from
13 people that do an initial application, what has
14 been, you know, the success rate in getting it
15 granted, or then are they told, Well, you know, I
16 think you're doing well, but I'd like some more
17 time. And let's see how you're doing with
18 that --

19 JUDGE BIEBEL: Well, we have those, but
20 there are people who misrepresented, kind of
21 forget to tell us they have a couple convictions
22 in Iowa because we do a nationwide search before
23 we do those. It's about 50 percent.

24 But the people who come in front of me



1 that ultimately connect, I could deny them for a
2 discretionary reason. For example, they've asked
3 for expungement. They may be entitled to a
4 sealing under Illinois law. I'll have them come
5 back.

6 But there are people who are just
7 plain not qualified. They've got four armed
8 robbery convictions.

9 We have a lot of hearings where the
10 initial denial is made in the letter of the law
11 and say, if you want reconsideration, you make
12 sure you bring it before the judge, and then I go
13 hear those.

14 CO-CHAIR YOUNG: You know, for many crimes
15 of violence, there is going to be an automatic
16 disqualification for many of the remedies --

17 JUDGE BIEBEL: Yes. The bright line in
18 Illinois is crimes of violence. I mean you make
19 a recommendation, you allowed to expand beyond
20 that, but that's the bright line is crimes of
21 violence.

22 CO-CHAIR YOUNG: And that's going to include
23 then a lot of DV cases or --

24 JUDGE BIEBEL: It depends. There is a lot



1 of DV cases that are dropped, as you know, where
2 the complaint is brought, and nobody shows up,
3 and they are just -- at least in Chicago. It
4 depends on the facts of the case.

5 If there is violence, they went to the
6 penitentiary for something else, an extreme, you
7 know, battery --

8 CO-CHAIR YOUNG: And then that battery
9 cannot be --

10 JUDGE BIEBEL: I would have a problem with
11 that. Yes.

12 CO-CHAIR YOUNG: So that's not a
13 statutory --

14 JUDGE BIEBEL: That's a statutory --
15 statutory, you can't do that. But DV cases are
16 ones you have to look at carefully.

17 MS. VANDERHORST: So if it was threats
18 instead of the battery?

19 JUDGE BIEBEL: If there were threats instead
20 of battery.

21 MS. VANDERHORST: But a DV threats case?

22 JUDGE BIEBEL: A DV threats case is a DV
23 threats case. It's not a DV battery case.

24 MS. VANDERHORST: But it wouldn't still



1 qualify, it would have to be excluded?

2 JUDGE BIEBEL: No, no. It's crimes of
3 violence that get excluded.

4 CO-CHAIR JONES: Let's get Elissa in.

5 MS. HEINRICHS: I have some questions about
6 the clemency petition procedure. You have
7 indicated that an investigation could help to
8 give a governor coverage. Do you have any
9 estimate as to how much per petition an
10 investigation would cost?

11 MR. MONTES: We actually priced some
12 investigators before I left the Board last year
13 just to start beefing it up, as I said. And I
14 thought they were like 60,000 at least, very
15 minimal, 60,000 per year, so to have two or three
16 for the volume that we had at about 800, 900
17 petitions a year, I have not worked out the math,
18 but it came out to if we hired one or two, it
19 would have been more than enough for the 900
20 roughly that we had.

21 MS. HEINRICHS: Now, you have a 75-day
22 period between submission of the petition and the
23 hearing that is requested? Is that the
24 approximate?



1 MR. MONTES: Yes. That's correct.

2 MS. HEINRICHS: Do you think implementing
3 the investigation I guess step in the process
4 would slow down the procedure at all?

5 MR. MONTES: It could. Yes, it would,
6 probably somewhat, but it would be to a good
7 end. They're slow anyway. They're like five
8 years slow.

9 MS. HEINRICHS: Do you find though that the
10 slow -- at what point in the process does it slow
11 down?

12 MR. MONTES: At the Governor's Office.

13 MS. HEINRICHS: I come from a state where
14 hearings are strongly encouraged.

15 MR. MONTES: Yes.

16 MS. HEINRICHS: I know here it's optional,
17 but strongly encouraged in Pennsylvania. There
18 are investigations. And it takes some time. You
19 don't automatically get a hearing. You have to
20 get a certain vote before you get to the hearing,
21 but there was a high rate of clemencies that were
22 granted under our former governor.

23 I guess my question is with the lack
24 of investigation, hearings being optional, and



1 what I'm assuming is a large number of pro se
2 petitions, do you find that without adequate
3 substantive background checks, that those
4 petitions are less likely to be granted because
5 you don't have the background information,
6 because maybe the petitions don't have the
7 information that you need?

8 MR. MONTES: Increasingly so. Historically,
9 miraculously, we didn't have any Hortons I can
10 think of in 16 years, but it's pretty
11 miraculous. But increasingly so, yes.

12 Now, you were talking about the number
13 of cases and the investigator, how it would slow
14 down the process. I think it would be a really
15 important investment in giving the governor that
16 kind of cover. And I think that's the weakest
17 part of the program we have.

18 MS. HEINRICHS: I would agree with that.
19 And I wonder if when the State's Attorney gets
20 involved, do they reach out to victims and --

21 MR. MONTES: They do, they do, and they do a
22 real good job of that. And I think they even
23 bring them out when they don't want to come out
24 because they feel they want to make their case



1 all over again. And then that's something that
2 the petitioner has to fight against.

3 And by the way, we really did
4 encourage public hearings, I did, because it's
5 just not the same to have hearings based on
6 paper. And I would discourage those.

7 You see, we didn't have an
8 investigative process, so it was our only shot at
9 really sitting down and cross-examining these
10 petitioners, so that was the best we could do.
11 It was 20 minutes. Now, it's 12 minutes.
12 They've shrunk the hearing to 12 minutes.

13 MS. HEINRICHS: And that's 12 minutes, the
14 petitioner, and there is what, three witnesses?

15 MR. MONTES: Sometimes, they fly in from
16 around the country. Sometimes, there is ten.
17 Sometimes, a lot of witnesses. They've got
18 12 minutes to present their entire case. And we
19 thought we were too short at 20 minutes. Now,
20 it's 12 minutes. I don't think that's enough.

21 MS. HEINRICHS: And my final question, I
22 know that there were a number of years when there
23 were no petitions that were moved at all. In the
24 last year, do you have an idea of how many were



1 considered and how many were granted?

2 MR. MONTES: I think they're up to 600, 600,
3 and the Governor is moving at a quicker pace.

4 MS. LOVE: He has granted about 40 percent
5 of the ones that he has acted on.

6 MS. HEINRICHS: And is that in 2011 or
7 2010?

8 MS. LOVE: It is from when he took office in
9 April, 2009.

10 MS. HEINRICHS: Okay.

11 MS. LOVE: So it's been about two and a half
12 years.

13 MR. MONTES: He is still working on the
14 previous docket. He has not even gotten to his
15 yet. He has been in office almost three years.

16 CO-CHAIR JONES: What do we do about sex
17 offenders? You know, I've been in Chicago
18 for -- I've been in Chicago on the ground now for
19 about 24 hours. At dinner last night with
20 lawyers, they said to me, make sure you bring up
21 the issue of sex offenders.

22 I went out to St. Leonard's this
23 morning, a wonderful place. And the director
24 there, the executive director there said, You



1 know, well, we used to take in sex offenders, but
2 because of political pressures and financial
3 pressures and other kinds of pressures, we no
4 longer are able to bring in sex offenders.

5 I listened to the Congressman this
6 morning talk about sex offenders, and even a
7 little bit so far today, and so the question is
8 we live in a society where technologically,
9 you're telling me, we can't forget because the
10 FBI or someone else, Big Brother always knows.
11 And we haven't reached this sort of evolutionary
12 point someone else said where societally, we are
13 able to really forgive.

14 So what do we do about sex offenders
15 who can't live in certain places, and can't, you
16 know, even sometimes be released because they
17 can't find a place to live in the pre-application
18 sort of phase. What do we do about sex
19 offenders?

20 MR. MONTES: I've thought a lot about this
21 issue. And I'm involved even now in litigation,
22 we're on this issue.

23 And the best thing that Illinois could
24 do, the fastest thing and the easiest thing -- I



1 don't know why they don't do it -- is to create a
2 category of sex offenders. Not everybody should
3 be lumped into the phalange, and that's what we
4 do here. And it makes absolutely no sense.

5 And we would save a lot of lives and a
6 lot of money if we segmented these into the
7 Romeo & Juliets on the one hand, the pedophiles,
8 predators, on the other hand. We don't do that.
9 We just lump them all together. They all have to
10 go through the same registry processes, et
11 cetera, which is foolish.

12 CO-CHAIR JONES: What would it take to bring
13 that sort of enlightened look at it to fruition?

14 MR. MONTES: Well, I'll tell you exactly.
15 And it wasn't for a lack of effort by the
16 legislature under the Blagojevich regime, and it
17 even passed, I believe the Senate and the House,
18 and it was vetoed by Governor Blagojevich, and it
19 hasn't been attempted again. That was about five
20 years ago.

21 CO-CHAIR JONES: Anyone, any thoughts?

22 JUDGE BIEBEL: I handle the type of sex
23 offender called a sexually violent person. And
24 that's a 13-year-old statute in Illinois, and



1 it's gone around the country, and the Supreme
2 Court of the United States hasn't affirmed the
3 concept yet. I have had 140 of them. I had a
4 hearing this morning on one.

5 They haven't released essentially two
6 convictions -- either violent rapists or child
7 molesters, so I deal with particularly, you know,
8 the serious kind of offender, but I understand
9 what the Chairman is saying. If you are a
10 19-year-old boy with a 15-year-old girlfriend and
11 you ultimately marry her, is that the same thing
12 as having someone who has had 17 sex victims as a
13 teacher? I don't think so.

14 MR. MONTES: Let me just put it into context
15 real quickly. I had a case one time, a public
16 hearing, in which on the one hand, we had the
17 mother and the daughter and her son-in-law. And
18 she said to the Board, my daughter will get a job
19 whenever she wants, and my son-in-law cannot get
20 a job. They're married. Give this kid a break.

21 JUDGE BIEBEL: You also have the issue of
22 where they can live. And basically, there is
23 nowhere they can live in the City of Chicago
24 because there is a school, a park, or a church or



1 a day care center, something, within 500 or 1,000
2 feet of a person's residency.

3 CO-CHAIR JONES: Today, I was told a story
4 of a guy who had some sort of -- sounded to me
5 like minor sex conviction, who had done
6 everything else that was needed to do to sort of
7 restore himself to society, had a job in place
8 and housing, was reunited with his family, the
9 whole thing, had found a place to live, an
10 apartment to live, had actually signed the lease
11 and was moving in.

12 And his parole officer or someone,
13 some such person found that in the backyard
14 across the alley, there was in the basement, a
15 home day care. No one had noticed it before. He
16 had done all these things, put all these things
17 in place, but somebody went out and found out
18 that there was a woman across the street who was
19 taking in children, you know, in her home. And
20 as a result, his whole sort of world fell apart.

21 And it just seems to me as though, you
22 know, your idea is the first sort of
23 recommendation that I have heard for what we can
24 do for these folks who seem to be at sort of the



1 bottom of the caste system when we're talking
2 about the hierarchy of folks who are trying to
3 get restored after arrest and conviction.

4 MR. MONTES: Just one note, side note to
5 that, and I understand that the Adam Walsh Act is
6 going to complicate matters because it doesn't I
7 think allow for that kind of separation. I'm not
8 sure. That's not good.

9 MS. STRONG: They're an untouchable caste in
10 our country in this regard. Absolutely.

11 MS. LOVE: They're untouchables of the
12 untouchables.

13 MS. STRONG: Yes.

14 MS. LOVE: What about violent offenses?
15 I've heard, for example, that murder is one of
16 those offenses that is least likely statistically
17 to recur, so that the recidivist rate for most
18 murders, so I mean what kinds of tools do we
19 need, do you need, either one of you, either in
20 your former capacity or Judge Biebel, what tools
21 would be useful in making these kinds of
22 assessments or predictions, if you will?
23 Ultimately, it's a case by case, but what would
24 be helpful?



1 JUDGE BIEBEL: There are murderers, and
2 there are murderers, if you want to use the sex
3 analogy. There are murders for hire, there is
4 gang murders. Most of our murders would involve
5 some gang involvement.

6 And what's happened with murders,
7 particularly with weapons, with guns, it's a
8 minimum of 45 years here in Illinois. You have
9 to serve 100 percent.

10 If you kill somebody with a knife or a
11 baseball bat, it's 20 years, plus whatever the
12 judge wants to enhance it, but when you use a
13 gun, it's 25, mandatory, go to 20, so it makes a
14 difference.

15 I think that that's uncharted waters
16 in Illinois. I think we've got to move along in
17 some of the other areas first. I mean I
18 understand the argument, but, you know, I think
19 we've got to do some other things first.

20 We have a pretty light legislature,
21 but everybody doesn't think like people in
22 Chicago.

23 MR. MONTES: Testimonials, I had dinner with
24 a murderer last month, somebody that I actually



1 in my former life was able to be released after
2 serving about 20 years. He was a gang member,
3 and he shot an opposing, a rival.

4 And it was very gratifying to me to
5 see him change his life. He is married with a
6 Department of Corrections counselor. And he
7 started his own company. And he has created
8 jobs. He invited me to a dinner for Catholic
9 Charities where he is giving back to the
10 community. And so testimonials like that can go
11 a long way.

12 CO-CHAIR YOUNG: Judge Biebel, a quick
13 question, the hearings on these expungements and
14 these applications, you mentioned there is a
15 court reporter, so these are all done in open
16 court?

17 JUDGE BIEBEL: Yes, they are.

18 CO-CHAIR YOUNG: Are the applications
19 themselves that are submitted to the court, are
20 those also public records or not?

21 JUDGE BIEBEL: The applications may be
22 public records. Most of the cases, I consider in
23 chambers. It's when the expungement is quicker
24 than the mechanism comes, we can have expedited



1 expungement hearings, or there has been a denial
2 and they want a new hearing, then it would be in
3 open court.

4 A lot of the expungements, I just
5 grant expungement on the basis of what I see, you
6 know, got a single arrest, no convictions. The
7 background says that's the only way for
8 expungements. I don't need to have that in
9 court.

10 CO-CHAIR YOUNG: Okay. So you have the
11 ability to run the background checks, but then
12 you're saying the Governor's Office doesn't, is
13 that what I'm hearing? I thought you said that
14 we didn't have the investigation, the staffing to
15 do the background checks, so that the Board of
16 Prison Terms didn't have staff, but Judge Biebel
17 I guess --

18 JUDGE BIEBEL: No. We do criminal
19 background checks. I don't do background checks
20 you're talking about. He's talking about
21 personal background checks.

22 CO-CHAIR YOUNG: So they're separate
23 from -- so you do have the criminal background
24 checks?



1 MR. MONTES: Yes, oh, yes. And we
2 implemented a few more measures.

3 CO-CHAIR YOUNG: Okay.

4 MR. MONTES: I would just like to say what
5 else can we do? And, you see, I think about
6 this, that's probably why I'm not in that job
7 anymore, but you've got to have the right kind of
8 administrators, the right kind of judges, the
9 people with the right mindset.

10 I was just in Texas two days ago, and
11 I was talking to my little brother who
12 ironically, is a minister. And he was saying,
13 Well, if they commit the crime, they learn,
14 somebody should fight them. Don't give them a
15 lot of procedures. Why do they last 16 years on
16 Death Row.

17 And then, you know, I had to stop
18 him. No. 1, you're a minister. Shame on you,
19 thinking that way. And 2, where is the whole
20 idea of -- I gave him the whole big brother
21 lecture.

22 But you've got to have people with a
23 mindset that understand that there is such a
24 thing as forgiveness, redemption, and that we're



1 dealing with human beings.

2 And if you don't have those kind of
3 people in the right places, you're not going to
4 have the right results.

5 MS. LOVE: I wanted just to follow that
6 comment up and ask you, Judge Biebel, this is
7 Cook County that you're talking about and the 17
8 presiding judges in Cook County. You have a very
9 enlightened legal system in the State of
10 Illinois. What's going on in the rest of the
11 state?

12 JUDGE BIEBEL: Cook County is Democratic,
13 the rest of the state is Republican.

14 I mean I can't explain what it is
15 other than you go different places, you know.
16 Crime up here which a burglary, for example,
17 which we see all the time when you don't have
18 downstate, okay, not only offense, but offenses,
19 so there is a difference.

20 MS. LOVE: Do you know whether there are
21 certificates being granted downstate?

22 JUDGE BIEBEL: I'm not aware of it. I just
23 don't know.

24 MR. MONTES: We found out there weren't.



1 There were not.

2 MS. LOVE: Were not.

3 CO-CHAIR JONES: We are unfortunately out of
4 time. This has been great. And we appreciate
5 that you've taken the time in sharing, giving us
6 the benefit of your expertise and experience. It
7 has been really very helpful.

8 Thank you.

9 JUDGE BIEBEL: Thank you very much for
10 having us. We appreciate it.

11 MR. MONTES: Thank you.

12 CO-CHAIR YOUNG: Just a quick question.
13 Does your court consider burglary a crime of
14 violence because there has been some discussions
15 in some areas.

16 JUDGE BIEBEL: That's correct.

17 CO-CHAIR JONES: We are going to take a
18 15-minute break, and we will reconvene with the
19 next panel at 3:30.

20 (WHEREUPON, a recess was had.)
21
22
23
24



1 PANEL 3

2 WITNESSES:

3 Carol Morris, Statewide Program
4 Manager, Illinois Department of Employment
5 Security;

6 Mark Myrent, Director of Research,
7 Illinois Criminal Justice Information Authority;

8 Charles Loeffler, Postdoctoral Scholar
9 at the University of Chicago Crime Lab.

10
11 CO-CHAIR JONES: All right. So a couple of
12 housekeeping things before we start.

13 I have been asked to tell everyone to
14 take their cell phones and put them in their
15 pockets or in their bags or somewhere other than
16 on the table because it's causing feedback with
17 our recording, and when we make the wonderful
18 video at the end of this that includes you, we
19 don't want it to be muffled by back-channel buzz
20 from someone's BlackBerry or cell phone.

21 The second thing is that we're asking
22 everyone to speak up and enunciate as best they
23 can in a good, strong voice both for the
24 recording, and also for the court reporter who is



1 trying to get all of this down as we speak.

2 Having said that, welcome. And we are
3 pleased to have you here and look forward to an
4 engaging conversation.

5 As I told the last group, the way that
6 we operate is to have each of you give an opening
7 statement of five minutes or so, give us the
8 benefit of your thoughts, and then one of us will
9 lead the discussion, but as you see, all of us
10 will ultimately probably get involved in the
11 conversation.

12 And Penny Strong will be starting off
13 with the questioning of this particular panel.

14 I guess there is not much more for me
15 to really say other than once again, to welcome
16 you. And then maybe we will start at this end,
17 have you introduce yourselves and give us the
18 benefit of your thoughts.

19 MR. LOEFFLER: Excellent. So my name is
20 Charles Loeffler, and I'm a postdoctoral scholar
21 at the University of Chicago Crime Lab where
22 mostly, I study the effects of criminal justice
23 contacts on the lives of children and adults.
24 And I'd like to thank the Task Force for the



1 opportunity and the invitation to speak to you
2 today.

3 The other panelists that have
4 previously spoken I think have pretty eloquently
5 stated the case for why restoration of rights is
6 an important topic, and so I'm not going to dwell
7 substantially on that topic in my remarks,
8 instead focusing more on what research does and
9 doesn't have to say on this topic as a
10 researcher.

11 But I do want to give one illustration
12 of the salience of this issue which is that in
13 2009, the Federal Bureau of Investigation had to
14 actually revise its numbering scheme in order to
15 meet the increased demand for FBI numbers that
16 are given to individuals at the time of arrest
17 and initial fingerprinting, and that all of those
18 records or at least the local and state
19 instantiations of them can cause substantial
20 barriers to individuals, even if they never
21 subsequently find themselves convicted of a
22 misdemeanor or a felony, and that they can create
23 barriers on a range of different life course
24 outcomes. And by that, I mean individuals



1 seeking employment, individuals seeking housing,
2 child custody, any number of different routine
3 life activities.

4 And so for that reason, it's a very
5 salient issue. And for the State of Illinois,
6 the central mechanisms as we've already heard for
7 seeking to remove those obstacles are
8 court-ordered case sealing, court-ordered
9 expungement, or executive clemency.

10 And lest we think that these are mere
11 legal curiosities that are not often sought by
12 individuals, just really a few months ago, there
13 was an expungement hearing just a few miles from
14 here, south of here, where over 3,000 people
15 sought legal assistance in the removal of
16 criminal record barriers to achieving whatever
17 their life goals were.

18 Now, having sort of briefly summarized
19 the case for why we should again care about
20 restoration of rights, I think my central task as
21 a researcher on this panel is to tell you that we
22 actually know virtually nothing about the
23 effectiveness of these different restoration of
24 rights mechanisms for individuals and for



1 individuals seeking to improve their lives.

2 So we can just go through a litany of
3 the basic questions we might be curious about,
4 some of which the panel has already mentioned and
5 say, Does expungement allow individuals to gain
6 employment, housing, child custody? It almost
7 certainly does, but how often does it, and how
8 effectively does it allow that. We don't know.

9 We could look at something like
10 criminal case sealing which is another important
11 remedy here in Illinois as well as elsewhere, and
12 say does it, you know, facilitate productive
13 participation in society. Again, we're not
14 sure.

15 And so for all these very basic
16 questions, we don't really have the research body
17 to inform a policy discussion yet. We know
18 something -- there is a growing literature on
19 what's known as redemption, and this question of
20 at what point does having a criminal record no
21 longer predict your likelihood of being
22 rearrested in the future. We have a little bit
23 of research on that, and we have even more
24 research on how these different criminal records



1 can serve as a barrier.

2 But when it comes to this question of
3 what are these different legal mechanisms, how
4 effective are they, we just don't know.

5 And so for that reason, I'm also happy
6 to be able to describe briefly some of the work
7 that the Crime Lab as well as a number of the
8 other Task Force panelists are doing in
9 collaboration with us to try and get some basic
10 information on the effectiveness of these
11 different remedies.

12 And that includes Cabrini Green as
13 well as hopefully the Illinois Criminal Justice
14 Authority, Information Authority, and as well as
15 some of the other important stakeholders.

16 And what we're attempting to do is
17 gather information on individuals who are
18 eligible for these remedies, who achieve these
19 remedies, and then following them forward to see
20 what happens in their lives, whether they are
21 able to achieve the life goals that bring them to
22 seek an expungement or criminal case sealing or
23 even executive clemency.

24 And I guess I would really like then



1 to close with the suggestion, I'll just leave it
2 as that to the Task Force, that as you're
3 traveling around the country, talking to
4 individuals, that you spend a little bit of time,
5 as I'm sure you will, asking about what empirical
6 evidence exists on the effectiveness of the
7 different remedies that you encounter because
8 there's a huge amount of variance around the
9 country in the different legal procedures that
10 exist and the specific rules that allow people to
11 seek them.

12 And given this variance, it actually
13 reminds me a little bit of a comment that Justice
14 Brandeis made which was that, you know, a single
15 courageous state may, if its citizens choose,
16 serve as a laboratory, and try novel social and
17 economic experiments without risk to the rest of
18 the country.

19 So in this state level variation, I
20 think there is an opportunity to understand the
21 effectiveness, the relative effectiveness of some
22 of these different procedures. And perhaps in
23 that, we can learn a little bit more about which
24 procedures we might want to see more of and which



1 ones might, with experience, be found to be not
2 as fruitful avenues for continued policy
3 experimentation.

4 So those are my remarks.

5 Thank you.

6 CO-CHAIR JONES: Thank you.

7 Next?

8 MR. MYRENT: Good afternoon. I'm Mark
9 Myrent. I'm research director at the Illinois
10 Criminal Justice Information Authority.

11 Charles' comments provide a really
12 good segue into what I'm talking about today,
13 which is the specific consequence from criminal
14 history records of reduced employment
15 opportunities.

16 And states have increasingly created
17 hiring restrictions that may turn a criminal
18 history record into a bar to employment. They're
19 imposed both in the public and in the private
20 sector. They vary widely, and they can affect up
21 to 71 million people now in the U.S. who have
22 criminal history records.

23 Each of these restrictions has its own
24 nuances. Some restrictions put jobs or places of



1 employment off limits to anyone with any type of
2 a criminal conviction. Some put them off limits
3 for those convicted of just certain crimes.
4 Sometimes they provide other types of
5 restrictions that are location based.

6 There is confusing complexity to all
7 these restrictions that becomes rather
8 nightmarish for both ex-offenders as well as
9 employers. It's due to the fact that the
10 criminal history restrictions on employment have
11 really proliferated over many years by many
12 entities. And there is not any single place
13 where they're really catalogued in one place
14 where we can get our finger on that.

15 Typically, they're spread over
16 numerous chapters of state laws. They're buried
17 in agency rules, lost in obscure agency policy
18 memos as well.

19 Most states haven't catalogued the
20 restrictions. And what I'm here to tell you
21 today is we have some good news, which is that
22 the Illinois legislature has now directed us
23 legislatively to begin that type of
24 information-gathering.



1 Some Departments of Correction are
2 developing individualized reentry plans now that
3 create post-release occupational goals, assigning
4 training programs intended to achieve those
5 goals, so part of the value of coming up with
6 this consolidated document is to aid in those
7 reentry efforts. We don't want to see offenders
8 wasting their efforts, sinking resources and time
9 into learning certain professions that they may
10 be unable to access by themselves.

11 So what we have now is an act that was
12 just signed by the Governor, 97-0501, creating
13 the task force on inventorying employment
14 restrictions. And it was created within our
15 agency, the Illinois Criminal Justice Information
16 Authority.

17 And the purpose is to review the
18 statutes, administrative rules, policies,
19 practices that restrict employment of persons
20 with a criminal history and to report to the
21 Governor and the General Assembly those
22 employment restrictions and their impact on
23 employment opportunities with persons with
24 criminal records.



1 And we have a task force that's been
2 created that will actually identify what they
3 believe to be employment restrictions that are
4 not reasonably related to public safety.

5 Now again, we are not entering into
6 this with any sort of a preconceived notion that
7 the restrictions are inappropriate. We are
8 looking at it as a research endeavor. We want to
9 try to open up this information to find out what
10 the status of these restrictions are.

11 Now, this task force is going to begin
12 meeting in November. We're awaiting the
13 appointment of eight legislative members to the
14 task force, four from each of the chambers. And
15 as well, there is going to be 13 state agency
16 directors who are part of this task force.

17 Now, by September 1, we're going to be
18 completing this report, September 1 of next
19 year. And what we're going to be asking for from
20 each of the state agencies is a report that
21 describes their employment restrictions, based on
22 criminal records, for each occupation under the
23 agency's jurisdiction and its boards, if any, but
24 not limited to -- and here is the key, this is



1 how broad this is -- employment within the
2 agency, employment in facilities that are
3 licensed, regulated, supervised, or funded by the
4 agency, employment pursuant to contracts with the
5 agency, and employment and occupations that the
6 agency licenses or provides certifications to
7 practice.

8 So to give you the idea of the scope,
9 we're talking about not just public sector
10 positions that we're learning about these
11 restrictions. When we talk about, for example,
12 the Illinois Department of Financial and
13 Professional Regulation, we're talking about a
14 lot of private sector certified positions.

15 I have a long list of them. But many
16 of them are job areas that could be likely
17 destinations for ex-offenders. We're talking
18 about real estate positions, brokers, sales,
19 appraisers, barbers, cosmetologists, dieticians,
20 home inspectors, locksmiths, nail technicians,
21 social workers. And the list actually includes
22 over 100 positions like that.

23 Now, what we're going to be finding
24 out about -- and again, bear in mind, it's not



1 just the employment within the agency, but all
2 these connections to the agency that are
3 contractors, they're grantees, et cetera, is what
4 job titles are actually being affected here.
5 What is the specific statute, regulation, policy,
6 or procedure that authorizes the restriction of
7 applicants for employment and licensure.

8 And also, as it pertains not just to
9 these applicants, but to current employees as
10 well, if there is a conviction that shows up,
11 what are the regulations for termination of
12 employment. And we're going to be finding out
13 for each disqualifying offense, the time limits
14 for each offense.

15 Now, these restrictions are generally
16 seen in two different ways. The restriction may
17 relate to a specific offense that if the person
18 has a history of that offense, they may be barred
19 from employment, or sometimes, it's a more
20 subjective process by the agency where it's based
21 on agency discretion. It can be things such as
22 being based on a finding of lack of moral
23 turpitude or lack of good moral character. We
24 are asking for each of the agencies to specify to



1 us how this is actually conducted.

2 The procedures that are used by the
3 agency to identify an individual's criminal
4 history, is this something that's just
5 self-reported by an applicant, or is there a
6 criminal history check that's done. Is it name
7 based, is it fingerprint based, the procedures
8 used by the agency to determine that the criminal
9 history disqualifies that individual.

10 We're looking also to find out if
11 there is any relief provisions if a person is
12 found to be disqualified, what might that relief
13 provision be. Is it based on a certain number of
14 years since that offense has taken place. Is
15 there other types of documentation that an
16 applicant can come up with for relief from those
17 restrictions.

18 You had mentioned earlier, there have
19 been studies relative to the amount of time
20 that's passed from a conviction whereby a
21 previous offender poses no more of a risk than
22 anyone else in the population. And that
23 information is beginning to circulate itself.
24 And it has some surprises to it where after a



1 surprisingly short number of years, the risks
2 really are minimal for certain types of
3 offenders.

4 And just to close out, the last part
5 of the inquiry is to actually get data from the
6 agencies to try to do an assessment of the impact
7 of these restrictions, how many people are
8 employed in these restricted positions, how many
9 people have applied, how many people have been
10 turned down because of the restrictions, how many
11 have applied for various forms of relief, how
12 many have made attempts to appeal that decision,
13 either administratively or in court.

14 Again, we're off to a little bit of a
15 slow start on this. The law originally passed
16 one year ago, with the stipulation that the work
17 was subject to a state appropriation which never
18 came, not surprisingly.

19 We decided that this work is very
20 important, and that we would do the work without
21 getting an appropriation, so at this point, we
22 are waiting for the legislative appointees to be
23 made to the task force. And we're hoping to get
24 the first meeting going by mid-November.



1 We have already developed out the bulk
2 of the methodology. We have a chair for the task
3 force. His name is Jeff Shuck from CMS. And
4 we've met with him. And we have a pretty good
5 idea of how it is that we're going to collect the
6 information.

7 Thank you.

8 CO-CHAIR JONES: Thank you.

9 Ms. Morris.

10 MR. MORRIS: My name is Carol Morris. And
11 I'm with the Illinois Department of Employment
12 Security. I am currently the statewide manager
13 of the reentry employment services program.

14 The reentry employment service program
15 is designed to support the reduction of
16 recidivism directly associated with the
17 unemployment rate of the ex-offenders.

18 Through employee seeker outreach and
19 the job seeker preparation, we are understanding
20 employer needs and identifying employment
21 opportunities and matching to qualified
22 candidates.

23 The reentry employment service program
24 provides technical assistance and training to



1 employees regarding fidelity bonding, work
2 opportunity tax credits, and assistance in
3 eliminating the stigma attached to hiring
4 ex-offenders. In this effort, we try to increase
5 our hiring of ex-offenders. Okay.

6 Reentry job seekers are also educated
7 regarding these incentives. In other words, we
8 actually tell the ex-offenders about the
9 programs, these incentives that we offer to the
10 employers so they will have some knowledge. They
11 can go and say, Hey, I've got this bond. I can
12 be hired, so you could call us and we could
13 handle that from there. In other words, giving
14 them some kind of insurance that they go to
15 employers with confidence and say, Hey, I am
16 bondable. You can use this insurance to hire
17 me.

18 Also, with the tax credits, we also
19 offer insurance. We also offer the employer, I'm
20 sorry, the work opportunity tax credit so that
21 his liability rate will go down if they hire
22 ex-offenders. Those are two incentives that we
23 offer to our employers.

24 The services that we provide to our



1 clients are assessment, we assess the client and
2 find out what his needs are. We register in
3 Illinois skilled matches to the database which
4 hires with the employee going in, sees what kind
5 of skills or the skill level he is looking for
6 for our clients that we -- our population of
7 clients that we service. And if he could match
8 himself -- if his needs match the skills that an
9 ex-offender has, that's how he would join, they
10 would merge employment. Okay.

11 We use job referrals for the
12 ex-offenders, job readiness workshops, resume
13 preparation. And we refer them for different
14 community-based organizations and faith-based
15 organizations, you know, to overcome various
16 hurdles that they may have in gaining
17 employment.

18 Again, we offer two incentives to the
19 employer. And one incentive is the work
20 opportunity tax credit I spoke of and a fidelity
21 bond. The work opportunity tax credit is an
22 amount of \$2400, part of an ex-offender getting
23 hired and on his payroll, I think it's 18 months
24 of service, 18 months.



1 And with the fidelity bonding, this is
2 a bond, issued bond to the employer for employees
3 that might have ex-offenders, and then \$5000 for
4 the first six months.

5 Now, if the employer decides that he
6 wants to hire or keep on this particular at-risk
7 employee, he can call us and say, I think I want
8 to keep this individual. However, I'm still
9 unsure, I'm still uneasy about it. We will add
10 another additional \$5000 to this bond.

11 The types of outreach that we have are
12 job seekers, employers. We outreach to the job
13 seekers, employers, or the state and Federal,
14 state -- other state and Federal organizations
15 and community and faith-based organizations. Our
16 outreach efforts are on-site recruitments,
17 employment job fairs, and job seeker workshops.

18 CO-CHAIR JONES: Great. Thank you very
19 much.

20 MS. MORRIS: Thank you.

21 And you must have a passion to want to
22 help other people in order to be -- in order to
23 do this. And I have a good -- I have a great
24 passion. I believe in helping people. And I



1 feel that once I'm going to say the re-citizen
2 has served his time, I think that's all he needs
3 to do. I think he needs a second chance.

4 CO-CHAIR JONES: Thank you very much.

5 MS. STRONG: Carol, one question I have for
6 you is so your program is based out of Illinois
7 Department of Employment Security. Is that sort
8 of the general labor agency?

9 MS. MORRIS: Yes.

10 MS. STRONG: And when you and I were talking
11 earlier, you mentioned that not only are there
12 offices in Chicago, but that then you have other
13 satellite offices like unemployment offices that
14 are all over the State of Illinois that serve for
15 this reentry program.

16 MS. MORRIS: That is correct. In every
17 employment office throughout the State of
18 Illinois, we have at least one liaison working in
19 the region program.

20 MS. STRONG: And how do you get your
21 referrals? Do a lot of them come in through the
22 Illinois Department of Corrections? Are
23 ex-offenders coming in by themselves? How have
24 you gotten word out about your program?



1 MS. MORRIS: Well, we collaborate with the
2 Illinois Department of Corrections as well as
3 other community and faith-based organizations, so
4 we actually go to the ADCs -- in our
5 collaborative efforts, we actually go to the
6 ADCs, and we talk to the inmates or the
7 ex-offenders and tell them what our program --
8 what we do with the RESP program.

9 And once they become available and
10 they are ready to become recitizised (sic), then
11 they'll call us. We will in turn give them to
12 the proper individual in that area so they won't
13 have to come all the way downtown to be
14 assessed.

15 Once they're assessed, then we do a
16 thing where like I said, we would do an
17 assessment, refer them. And we talk to other
18 community and faith-based organizations to see if
19 they can help them because a lot of these people
20 come out, they don't even have houses or
21 clothing, so we try and help them the best we can
22 through our referrals.

23 MS. STRONG: And do you have any particular
24 group of employers, or I also noticed in the



1 Illinois collaboration materials that we got,
2 that there is a panel of business leaders that
3 your agency is trying to engage and get actively
4 involved to reach out to the business community
5 as well as obviously the ex-offenders?

6 MS. MORRIS: Absolutely.

7 MS. STRONG: And how does that work? Do you
8 have business panels in each area, each city, or
9 what have you done in that regard?

10 MS. MORRIS: At this time, we have a new
11 director. And he has started this collaboration
12 of employers right now, particularly in the
13 downtown area. I'm quite sure we're going to
14 venture out all over the State of Illinois and
15 have these different collaborations with
16 employers.

17 However, we do have state employees
18 are the people like myself, managers that go out
19 and do job developments to hire ex-offenders.

20 MS. STRONG: So the way that your brochure
21 actually describes this, it sounds like each
22 ex-offender gets a full workup and you actually
23 maintain a case file on that individual within
24 your office to help them?



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1 MS. MORRIS: Yes, ma'am. That's absolutely
2 correct.

3 MS. STRONG: All right. And do you
4 coordinate with Mr. Myrent's agency then on any
5 development statistics? I think you said that
6 your program has been up and running for several
7 years now. Do you have any statistical studies
8 that show that you're getting a certain
9 percentage of ex-offenders into jobs?

10 MS. MORRIS: No, ma'am, we don't, but I'm
11 quite sure if I was to ask someone in our legal
12 office of information union to follow it up, they
13 could get that information for him.

14 MS. STRONG: And then we also talked about
15 the certificates, the court certificates and how
16 those can actually help. And have you seen any
17 actual examples of people getting expungements or
18 the certificates of good conduct or relief from
19 disabilities?

20 MS. MORRIS: Have I seen it?

21 MS. STRONG: Yes.

22 MS. MORRIS: No, ma'am, no. No, ma'am. And
23 again, like I told you earlier, when we assess
24 the ex-offender, we don't look for that because



1 regardless whether he got a crime this big or a
2 crime this big, we're going to help him
3 regardless.

4 So to say that I'm looking for a
5 citizen, a certificate or some other means of
6 saying that he is going to -- he will be here is
7 to me partial. We want to be as impartial as we
8 possibly can. We want to treat them all as one.
9 You know, they are individuals, but we try to
10 make no differences between one ex-offender from
11 the other.

12 MS. STRONG: As I understand the law in
13 Illinois on someone who applies for employment,
14 they cannot be asked about an arrest or
15 conviction record, is that correct, unless it is
16 specifically related to the job that they are
17 applying for?

18 MS. MORRIS: I have been going to various
19 council meetings. And I understand that they are
20 trying to stipulate that, make that a law, but I
21 don't know if it is as of yet. They are trying
22 to block it out on the application where an
23 employer asks on the application, on the
24 application, if you have a background history or



1 not.

2 Now, once the employer gets you into
3 an interview, it's up to his discretion. But on
4 the actual application, I think they are trying
5 to wipe that totally out in the State of
6 Illinois.

7 MS. STRONG: So when you talk to potential
8 employers or business leaders, what do you stress
9 besides, say, the bonding or the tax credits?
10 What other benefits do you stress to them about
11 hiring an ex-offender?

12 MS. MORRIS: My whole thing is I believe
13 that an ex-offender has a whole lot more to prove
14 than a regular citizen. And I think they -- and
15 this is my opinion -- they will work a lot
16 harder, and so I give that to the employer
17 because they're trying to re-prove themselves.

18 MS. STRONG: As well as the benefit of
19 obviously, just the employer doing a good deed
20 and helping somebody who needs that second chance
21 and needs a job, obviously, to make their way in
22 the world.

23 MS. MORRIS: Definitely. But also,
24 actually, before we actually refer an ex-offender



1 to an employer, we've already discussed what this
2 employer, if he is actually willing to hire an
3 ex-offender. So we do have a small database
4 where we do have employers that are willing to
5 hire ex-offenders. And we're trying to build
6 that database every day.

7 MS. STRONG: And then I just want to take
8 you back again to that sort of troublesome
9 question sometimes when you get someone who is
10 willing to hire an ex-offender, do they inquire
11 into the nature of the crimes, do you have to
12 deal with that and authority issues sometimes?

13 MS. MORRIS: Again, we don't have to do
14 that. I think that's between the employer and
15 the employee. If the employer thinks that he
16 needs to find -- that he needs to know the reason
17 why the ex-offender has a case, then I believe
18 that the employer should ask the employee or the
19 client.

20 MS. STRONG: All right. Thank you.

21 Mr. Myrent, I have some questions
22 about we have this appendix in terms of all of
23 the different occupations and business licensures
24 that are issued under different state agencies.



1 And that's what the task force that you are going
2 to be involved with is going to survey in part,
3 is that right?

4 MR. MYRENT: In part, yes. Initially, we're
5 talking about within there is approximately 80
6 state agencies. It's going to be folks that they
7 have direct contact with, either as employees in
8 their agency or in organizations that are
9 involved contractually with those state agencies,
10 either as subcontractors. We have large agencies
11 here, as in many states, the Department of Human
12 Services, the Department of Mental Health, the
13 Department of Children and Family Services, that
14 are responsible for overseeing the provision of
15 human services in various areas, so we would be
16 looking at all those positions.

17 When we talk about licensure, this is
18 where we begin to cross over into the private
19 sector positions because the certification
20 process for a number of positions is a state-run
21 function. And the language of the legislation is
22 asking us to also look at that as well.

23 MS. STRONG: Because looking over some of
24 these occupations and professions, I notice you



1 have got if somebody wants to be a dog groomer, a
2 felony can be a bar there, right?

3 MR. MYRENT: Yes.

4 MS. STRONG: And it doesn't seem that it
5 would be -- something like being a lawyer or a
6 doctor, that you would care very much about
7 that.

8 But then it also refers to the fact
9 that whichever department is regulating them can
10 do an investigation. And do you have any idea
11 how that works internally? If somebody applies
12 and they have a felony, does the department have
13 its own staff who investigates them?

14 MR. MYRENT: What I can speak to is how it
15 works for the public sector positions. There is
16 a front end to the hiring process for all the
17 state agencies. We have a Department of Central
18 Management Services that collects all
19 applications for state employment except for
20 executive level positions.

21 There is a form that each applicant
22 fills out, very bureaucratic looking form,
23 CMS 100. And on that form, the applicants are
24 asked to check off a box which states, Have you



1 ever been convicted of a felony? And that's the
2 only thing that's on that CMS 100.

3 Now, CMS does the initial screening to
4 determine a grade for all job applicants, so
5 they're looking to see the individual's
6 educational and employment history. And based on
7 those things, and in some instances, there is
8 some additional testing that goes along with that
9 determination process.

10 For example, our agency has worked
11 with CMS to create an additional test to insure
12 that applicants they send us that are Grade A are
13 those that truly have knowledge of the criminal
14 justice system, of research methods and
15 statistics. Previously, we were getting a number
16 of applicants that may not have had -- that was
17 more of a subjective decision.

18 But going back to the criminal history
19 portion of this, they will not do any
20 verification of what is checked off in that box.
21 The extent to which they involve themselves is
22 that if a person checks off the box, they will
23 perhaps have an additional conversation with the
24 state agency that that person is being referred



1 to for a position.

2 And if they give information about
3 what the nature of that conviction is, they will
4 offer an opinion as to whether that is a
5 meaningful bar to employment or not.

6 But ultimately, the decision rests
7 with each and every state agency, not only again
8 for their own employees, but any sort of
9 restrictions that they want to pass on to the
10 contractors they deal with, with the grantees
11 that they deal with. It's all up to that state
12 agency.

13 And there is varying methods with
14 which the criminal history is determined by
15 them. And again, what they do with that
16 information is precisely the subject of the
17 inquiry that we're doing, so is any conviction
18 going to be a bar. Is there any sort of relief
19 provision, based on number of years.

20 Are they looking more closely at the
21 type of offense. If the type of offense they
22 were convicted for really bears no connection to
23 the type of employment they'll be performing, do
24 they take that into consideration.



1 And again, in some instances, it's a
2 completely subjective decision where there aren't
3 specific offenses that are delineated, but it's
4 more of a determination of usually the language
5 is moral turpitude or something along those
6 lines. And we're going to be asking that.

7 Now, we're going to be verifying all
8 that information when it comes back, but in some
9 instances, we will have to basically take the
10 word of the agency as to how they screen that
11 information. We have the ability to validate
12 whether they are following any restrictions that
13 are spelled out in the law and in the
14 administrative rules. We can look at those
15 things.

16 But I have to tell you that upon our
17 initial examination of the landscape, it seems
18 more likely that those restrictions are not based
19 on law or administrative rule. They tend to be
20 agency-specific policies that may or may not be
21 well documented. It may be in the form of an
22 email that was sent three years ago from the
23 personnel director for the agency. It may be
24 very informal.



1 And these are the types of things
2 we're going to be asking for from each of the
3 agencies, that we're depending upon them, you
4 know, to be frank with us about what those rules
5 and restrictions are.

6 MS. STRONG: Well, it also seems that the
7 agency, when they're doing this internal review
8 or investigation, they are in essence
9 performing -- they are determining an issue as to
10 whether the person has been rehabilitated which
11 sounds like what, of course, the court is doing
12 when they review them for the certificate of good
13 conduct or whatnot.

14 And there is no talk in here about
15 licensure for teachers. I imagine you've got
16 some sort of independent agency, public
17 instruction or something like that.

18 MR. MYRENT: I believe this will also be --
19 you know, I'm not sure if that will be through
20 the State Department of Professional Regulation
21 or whether that's handled separately by our state
22 Board of Education. I think now that you're
23 asking about that, I think that may be handled
24 separately by the state Board of Education.



1 MS. STRONG: I know I have some experience
2 with that in the State of Montana. And I came
3 across the interesting fact that in Montana, in
4 most states, a person can be denied licensure as
5 a teacher at basically any level for committing
6 what's known as the vague term of immoral
7 conduct. And then in our state, there are
8 specific enumerated crimes that fit within that.
9 And it really is a bugaboo because people can be
10 turned down for misdemeanors, DUIs, things like
11 that. And they can be turned down for so-called
12 uncharged "immoral conduct."

13 There is an old case where a couple
14 cohabited together. One person lost their
15 license. So I don't know how that's going to
16 synchronize in with what your task force is going
17 to do.

18 MR. MYRENT: In looking at the state Board
19 of Education, they will be one of the ones that
20 will be inventoried, so we would be getting at
21 how the process is carried out for teachers as
22 well.

23 One thing I wanted to just add is that
24 statutorily, the process is sometimes more



1 stringent for certain types of sensitive
2 positions. Legislators will occasionally pass
3 laws that call for very stringent background
4 checks for persons who are, for example, child
5 day care workers, school bus drivers, and several
6 other positions where the information that they
7 are allowed to access is not simply the
8 conviction, but they are allowed to look at the
9 entire criminal history record, including
10 arrests, and can enact restrictions based on an
11 arrest, even if it's not followed by a
12 conviction.

13 MS. STRONG: And that's a so-called -- I
14 think the term used is vulnerable populations,
15 minors, people who work with the elderly, whether
16 they are a CNA, LPN, or something to that effect,
17 so those probably are the areas where the
18 criminal record is going to and a conviction is
19 going to continue to be a real live issue and
20 there probably won't be a lot of change, I would
21 imagine.

22 MR. MYRENT: I would think so. And, you
23 know, a lot of the laws that are passed
24 oftentimes are reactionary. They may be as the



1 result of a particular incident where someone was
2 harmed, and then a law gets passed that these
3 people need to be looked at more closely prior to
4 hiring.

5 MS. STRONG: My last question for you, is
6 the whole idea of the task force and the new
7 legislation that you referred to, had that been
8 done in any other state, or is Illinois the
9 first --

10 MR. MYRENT: We're one of the first. There
11 is only one other state where it has been done in
12 as much depth as what we're pursuing. That other
13 state is Florida. And I understand that this
14 task force will be also looking at Florida.

15 In some ways, we are modeling some of
16 our approach after what they did in Florida
17 because it was a very exhaustive study that they
18 did.

19 The one difference in terms of
20 initiation though is the Florida directive to
21 carry out this inventory came out of a Governor's
22 executive order, whereas here, it was initiated
23 through legislation. And I don't know why, you
24 know, a different approach was determined to be



1 better in one state than another.

2 MS. STRONG: Have you seen the study that
3 was done by Florida?

4 MR. MYRENT: Yes, I have. And I can make
5 that study available to this Task Force. I have
6 the complete report. It's been a while since
7 I've read it. It was done about three years
8 ago.

9 But their findings were that there
10 were a lot of instances of restrictions that were
11 determined by their task force to be not
12 reasonably related to public safety.

13 MS. STRONG: And did they then have any
14 legislation that changed --

15 MR. MYRENT: Yes, yes. My understanding is
16 that did result in some changes to the
17 legislation to try to reduce those restrictions.

18 MS. STRONG: All right. Thank you.

19 Mr. Loeffler, how do you see your role
20 at the Crime Lab in terms of synthesizing in I
21 guess this data that these two folks and other
22 agencies hopefully are going to be producing in
23 terms of the impact on people's lives?

24 MR. LOEFFLER: Well, I think the key is as



1 we either do this additional collection to
2 understand the current state of restrictions
3 and/or remedies and programs designed to make
4 remedies available to individuals, that we do
5 actually follow up with research that examines
6 and produces the evidence that we then need to
7 understand the efficacy of these different
8 initiatives.

9 So that's very much what I see my role
10 and our role as. It's following up on this very
11 important work with then whether it be research
12 studies that involve surveys, research studies
13 that involve following up, using administrative
14 data or other types of research designs to
15 understand whether these different approaches
16 have the impact that we think they have.

17 And as an illustration of this, I pose
18 the question, when you think about these
19 certificates of good conduct or the other
20 certificates in the State of Illinois, there is
21 two very obvious ways of interpreting the fact
22 that very few of them have been issued recently.

23 One is that not enough information has
24 been communicated to the eligible population, and



1 for that reason, if we just invested more dollars
2 in communicating information, lots of people's
3 lives would be improved.

4 And the other interpretation is that
5 this is actually a very ineffective policy, and
6 that people are reviewing the subjective
7 preference which is to say it's not worth their
8 time to get these certificates because they don't
9 actually improve their lives.

10 So given the current information we
11 have, either interpretation is perhaps not
12 equally likely, but certainly within the realm of
13 possibility. And only through gathering
14 information by surveying people who are doing
15 other measures would we be able to determine what
16 the best further course of action is with respect
17 to something like certificates of good conduct.

18 MS. STRONG: Let me just take that question
19 back to Carol Morris again.

20 And Carol, have you heard of any
21 specific instances where people who have gotten
22 those certificates, or have the employers
23 mentioned that they would like to see job
24 applicants who have those certificates before



1 they hire?

2 MS. MORRIS: Not to my knowledge. Not at
3 all.

4 MS. STRONG: And do any of you have any idea
5 how long, what kind of time period Illinois is
6 looking at for these certificates to be issued by
7 the courts? Is it a matter of several years?

8 MR. MYRENT: I don't know. I'm not that
9 familiar.

10 MR. LOEFFLER: I'm not aware.

11 MS. MORRIS: I am not educated in that. I
12 don't know.

13 MS. STRONG: But you're not seeing any
14 direct impact on the employability of these folks
15 in terms of those certificates?

16 MR. LOEFFLER: I think to date, the
17 certificates represent a much smaller remedy than
18 some of the other avenues that have been pursued,
19 where we're talking about expungement, criminal
20 case sealing, or then clemency petitions to the
21 Prisoner Review Board as the primary mechanisms
22 that people are using.

23 MS. STRONG: And I notice you have a pretty
24 impressive set of credentials, Mr. Loeffler, in



1 terms of your educational background that you
2 have.

3 Do you know of any other
4 jurisdictions, whether they are in the United
5 States or outside of this country, that has
6 studied these type of things, ex-offenders and
7 the impact on their lives, their families' lives,
8 of, if you will, a lifelong disability in terms
9 of a conviction?

10 MR. LOEFFLER: To the best of my knowledge,
11 we have quite a bit of research understanding the
12 negative effects that different types of criminal
13 records can pose over the lifetime of individuals
14 and even their family members as well.

15 But again, to my knowledge, we have
16 very little, if almost no knowledge from any
17 jurisdiction on the effectiveness of these
18 specific remedies when we're talking about
19 expungement or pardons. There has just been a
20 lot less research in that area.

21 And our study hopefully will be one of
22 the first along with several others that I have
23 heard about are in various stages, so that's
24 essentially to my knowledge where we are.



1 MS. STRONG: Okay. Thank you.

2 CO-CHAIR JONES: Elissa.

3 MS. HEINRICHS: Thank you.

4 Mr. Loeffler, just continuing on with
5 your discussion about the surveys and studies,
6 specifically, you talked about, you were asked
7 about the effectiveness of the certifications.

8 I think the effectiveness of
9 certifications is not only determined by the
10 number of individuals who successfully petition
11 for them, but also their ability to then use them
12 in the work force.

13 And I'm wondering if you have done any
14 work surveying employers regarding their specific
15 concerns with employing individuals with criminal
16 histories, and if there is any discussion about
17 researching perhaps I guess the concerns that can
18 be determined to be unfounded, the unfounded
19 concerns by employers.

20 Is there any usefulness in that
21 because it seems that we're talking a lot about
22 what the individuals are seeking and successfully
23 receiving in the courts, but it doesn't serve a
24 use if we're not talking to employers and



1 engaging them and educating them, I'm wondering
2 how successful we can really be.

3 MR. LOEFFLER: Yes. So most of the studies
4 that we have that have been -- that were
5 conducted on surveying employers and their views
6 on their willingness to hire, whether we're
7 talking about ex-prisoners or individuals with
8 less substantial criminal records, seem to
9 suggest that most employers have a generalized
10 concern about hiring what they consider to be a
11 risky or disreputable individual, and that their
12 concerns are not focused particularly on
13 questions of you have a conviction for theft, and
14 I'm hiring someone in a position of trust, and
15 therefore, I'm concerned about that.

16 I have not yet seen studies that have
17 seen whether there are any additional pieces of
18 information that can be communicated that would
19 serve to diminish those concerns.

20 And the other limitation of a lot of
21 those studies is that they were mostly conducted
22 during a much more expanding economy, and so I
23 think there is reason to think that we would find
24 even a less favorable situation if we redid a lot



1 of these surveys today when jobs are in such --
2 yes, so few some fear.

3 MS. HEINRICHS: Okay. Thank you.

4 And I have a question for you,
5 Mr. Myrent. Did I say your last name correct?

6 MR. MYRENT: Yes.

7 MS. HEINRICHS: It's kind of a two-part
8 question because I'm being limited to one more,
9 so there are subparts here.

10 CO-CHAIR JONES: She's a good lawyer.

11 MS. HEINRICHS: You've talked about the
12 CMS 100, right? And CMS conducts the initial
13 investigation?

14 MR. MYRENT: They don't. In terms of
15 criminal history, all it is is the checking of
16 the box, and then they pass that information on
17 to the next agency that will be hiring or -- that
18 will be hiring that individual.

19 MS. HEINRICHS: And you described the
20 information that's passed on and what the agency
21 ultimately does with it. That's a subjective
22 process, is that correct?

23 MR. MYRENT: That's correct. Well, in some
24 instances, it's subjective.



1 MS. HEINRICHS: Unless it was --

2 MR. MYRENT: That's what we're trying to
3 sort out. In some instances, it may be subject
4 to law or administrative rule.

5 And if it's a matter of in-house
6 policy, we're trying to get at the degree to
7 which those things are really delineated clearly
8 or whether we're really talking about a lot of
9 ambiguous, subjective procedures where it's more
10 of a, you know, we'll know it when we see it type
11 of a situation, to what degree are the rules
12 specified that there are definite qualifying and
13 disqualifying offenses, to what degree are there
14 rules in place as to how many years may have
15 passed where that restriction is no longer in
16 place. Are there rules in terms of the relevancy
17 of having a certificate in place. These are the
18 types of things that we're going to be sorting
19 out.

20 MS. HEINRICHS: And when you're sorting this
21 out, is there a retention policy in place that
22 requires the agencies to hang on to the
23 information that they receive from CMS? I mean
24 you're seeking that information. Are they



1 required to retain it and is the public -- is it
2 available to the public, either through the Right
3 to Know Act, is it going to be available through
4 your publication?

5 MR. MYRENT: No. It won't be available
6 through our publication. The CMS 100s are
7 retained by the agency directors of human
8 resource. I believe that they are expected to
9 hold on to those for a minimum of seven years
10 before they're archived. There is a state
11 archive that things can be moved to after that
12 time.

13 I think in terms of any access to
14 that, I would imagine that that would have to go
15 through a FOIA request.

16 MS. HEINRICHS: Thank you.

17 CO-CHAIR JONES: Margaret.

18 MS. LOVE: Let me just keep you on the hot
19 seat for a moment, Mr. Myrent.

20 When the CMS 100 -- I think I missed a
21 step here -- that's the form, right?

22 MR. MYRENT: It's the form. It's a paper
23 format. And you can fill it out electronically
24 now online.



1 Just to be clear, it's essentially
2 your information, who you are and your
3 educational background and your work background.

4 MS. LOVE: Okay. And it has got the box?

5 MR. MYRENT: And it has the box that it just
6 simply says, Have you been previously convicted
7 of a felony?

8 MS. LOVE: Okay. I have two questions. One
9 has to do with the box. And the other one has to
10 do with what happens once the form gets to the
11 agency.

12 The City of Chicago, under Mayor
13 Daley, had a policy of not putting the box, at
14 least on the form that went to the hiring agency,
15 the ban the box, if you will, policy for
16 municipal hiring. And you're dealing with
17 state-level agencies?

18 MR. MYRENT: That's correct.

19 MS. LOVE: Has there been any talk, any
20 discussion about possibly extending that ban the
21 box policy that governs Chicago municipal hiring
22 to state hiring?

23 MR. MYRENT: There hasn't yet, but that may
24 be coming soon. Over the past several years,



1 there has been a unified effort to try to
2 advocate for offender reentry. And one of the
3 recommendations that's come out of that --
4 initially, there were two task forces, one at the
5 state level, and one at the city level.

6 And the recommendations then, those
7 task forces merged into the collaborative on
8 offender reentry. One of the recommendations
9 that's come out of that is to revisit that
10 process. So far, there has not been though any
11 action in response to that.

12 MS. LOVE: But they're still following the
13 ban the box policy in Chicago?

14 MR. MYRENT: I'm not sure because I can't
15 really speak to the city's practices.

16 MS. LOVE: Okay. That would be really
17 helpful to know.

18 MR. MYRENT: I'd be happy to find that out
19 and report back to the Task Force.

20 MS. LOVE: It would be super. And perhaps
21 if they've done any kind of -- I don't know
22 whether you know, Mr. Loeffler, have they done
23 any sort of empirical assessment of the success
24 of that program and, you know, how many people



1 were hired under it.

2 The idea I suppose theoretically is
3 that if you get somebody into your office and
4 interview them and decide they're great for the
5 job, then you find out what their criminal record
6 is, you've already established a personal
7 connection that will sort of, to some extent,
8 neutralize, if you will, the way they see your
9 criminal record. You can see it in light of the
10 acquaintance you have with the individual.

11 So a lot of people think -- there is
12 now a statewide ban the box in Minnesota, in
13 New Mexico. And a lot of municipal hiring has
14 been done under ban the box programs, and people
15 seem to think they're great. I'm not so sure
16 you're not just postponing the day of reckoning,
17 but --

18 MR. MYRENT: Well, I don't know to what
19 degree the information is useful in and of
20 itself. I think to the extent -- and this is
21 part of what will come through in the inquiry --
22 I think the ultimate decision comes down to the
23 other state agency that receives that information
24 for hiring practices, so what we want to know is



1 what do they do with that information. Do they
2 seek some additional validation themselves.

3 And again, remember that this
4 information they are receiving from CMS is not
5 based on any type of a criminal history records
6 check.

7 MS. LOVE: Right.

8 MR. MYRENT: And the other thing, too, our
9 agency is heavily involved in promoting improved
10 data quality with criminal history record
11 information. And we've been trying to push the
12 notion that name-based checks are also unreliable
13 as well.

14 And at the very least, if there is
15 something that comes back on a name check, there
16 should be some sort of a challenge process that's
17 in place. Really, the only way to know for
18 certain that you're getting accurate, complete
19 information is with a fingerprint-based check.

20 And those types of checks are less
21 expensive now. There is a lot more
22 fingerprinting that's taking place now in the
23 last ten years than ever before. It has
24 skyrocketed because of the proliferation of the



1 Live Scan machines.

2 So our State Police who oversee the
3 criminal history records system have seen a huge
4 increase in the numbers of fingerprint
5 submissions that have come in multiple-fold over
6 the last ten years because of the availability of
7 these machines. It's a much easier process than
8 the old ink and roll process.

9 So all I'm saying is that if we
10 decided to promote a process of using more
11 fingerprint-based checks, the technology is there
12 now where the economic impact of that may not be
13 that substantial.

14 CO-CHAIR JONES: We are unfortunately
15 running up against the clock, I'm sorry, and
16 about to run out of time. We have a very few
17 minutes left.

18 I want to get Geneva in for one
19 question and Vicki in for one question.

20 MS. LOVE: Perfect.

21 MS. VANDERHORST: Actually, my question, the
22 most important one I have is for Ms. Morris
23 because I have a concern with the tax credit
24 being abused, particularly an employer who knows



1 that they can get an easy -- they have an easy
2 pool of folks who need jobs, want jobs, are
3 willing to work hard, hiring them for the 18
4 months, firing them, and then getting a fresh
5 group in.

6 I understand that you all keep files
7 on clients because you start with an assessment,
8 but do you get feedback from those clients on how
9 they are being treated with employers to try and
10 track whether or not that's actually happened?

11 MS. MORRIS: Well, at this point, because
12 first of all, let's make it clear, I'm just the
13 manager within the last year, but from my
14 experience with the staff that I'm currently
15 working with, they're actually getting feedback
16 actually from the employers that we extend the
17 tax credit to.

18 So in other words, it's like an after
19 action report. They actually call the employer,
20 ask how the employee is doing. There's no reason
21 for the employer to fire -- again, my
22 assumption -- to fire a good employee, so I don't
23 think that we're seeing that type of abuse. I
24 mean if the individual has a problem, I'm quite



1 sure we will find that out, too.

2 CO-CHAIR JONES: Thank you. Sorry.

3 CO-CHAIR YOUNG: He's tough.

4 In looking at the employers that have
5 been hiring people that go through your program,
6 is it more small businesses, or is it large
7 companies?

8 MS. MORRIS: More small businesses.

9 CO-CHAIR YOUNG: So it takes a lot of
10 outreach to reach all these businesses as opposed
11 to you can, you know, let's say, open the door to
12 Dow Chemical, I'll just pick a name, have a big
13 company. It's the smaller businesses that are
14 working with you in hiring?

15 MS. MORRIS: Pretty much, yes, but we are
16 reaching out to larger companies like Ford Motor,
17 Dow Companies and different places like that.

18 CO-CHAIR YOUNG: And how long has this
19 program been in place?

20 MS. MORRIS: This program has been in
21 existence I think since the 1980s. However,
22 my --

23 CO-CHAIR YOUNG: With the incentives?

24 MS. MORRIS: Oh, yes, yes. I'm quite sure



1 that's correct. I don't know. Recently in the
2 last year or two, it has been one of the
3 Governor's initiatives to make sure we try and
4 get the ex-offenders jobs, so since I've been on
5 the front burner now.

6 CO-CHAIR JONES: We are unfortunately over
7 time. I'm going to exercise the Chair's
8 prerogative and ask one last question, and that
9 is to Mr. Loeffler, you're very diplomatic, but
10 my sense is -- I could be wrong -- that you are a
11 little bit skeptical about the efficacy of some
12 of these various opportunities and programs.
13 Your face looks like maybe I am wrong.

14 But when you talk about discerning
15 whether or not people are not using these options
16 because they're too complicated, too complex, and
17 the knowledge bases, and there is not enough
18 public information, and they don't know about it,
19 or they're not using them because they have no
20 real impact on their lives and it's a waste of
21 time, and it takes too much time to go through
22 the process for really little bang for my buck,
23 how do you discern that? How do you discern
24 other than anecdotally whether or not people are



1 not seeking these certificates and other things
2 because they don't have any impact nor meaning or
3 because it's just too complex a maze to them?

4 MR. LOEFFLER: Well, I'll refrain from
5 saying whether your characterization of my face
6 or my other implicit signals is accurate, but I
7 think it depends. If the question is whether
8 people perceive these to be useful, that seems
9 like a great subject for a survey where you
10 systematically find a relevant eligible
11 population and simply ask.

12 CO-CHAIR JONES: Survey.

13 MR. LOEFFLER: On the other hand, for
14 questions that are not focused so much on
15 people's perceptions of the relative efficacy or
16 the efficacy of a particular initiative, then we
17 may need a more involved research design to try
18 to actually ferret out the contribution of a
19 particular service to someone's life relative to
20 other things that they may be also trying to
21 achieve or other influences that have also
22 contemporaneously occurred in their lives.

23 CO-CHAIR JONES: Great.

24 MR. LOEFFLER: Thank you.



1 CO-CHAIR JONES: Thank you. Thank you all.
2 This has been incredibly helpful and useful. And
3 we appreciate your time and you coming down.
4 Thank you.

5 All right. We are going to take what
6 looks like it's going to be about a ten-minute
7 break and reconvene with our last panel of the
8 day at 4:45.

9 (WHEREUPON, a recess was had.)
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PANEL 4

WITNESSES:

Beth Johnson, Staff Attorney, Cabrini Green
Legal Aid;

Darrell K. Langdon, Sr.; Engineer, Chicago
Public Schools.

CO-CHAIR JONES: All right. Let's start.

This is our last panel of the day,
certainly, but not least. And both of you, your
reputations precede you. If nothing else, you've
been referenced almost in every other panel that
we have had today, so we are obviously excited to
hear from you and to then have a conversation
with both of you.

Beth Johnson is a staff attorney at
Cabrini Green Legal Aid.

And Darrell Langdon, Sr., is an
engineer at the Chicago Public Schools, is that
right?

MR. LANGDON: That's true.

CO-CHAIR JONES: And has a very interesting
story that we're interested to hear and discuss
with you.



1 As you guys know, certainly as Beth
2 Johnson knows, the way that we do this is we give
3 you five or so minutes at the outset to give us
4 the benefit of your thoughts, to tell us whatever
5 it is you might, and then we have a bunch of
6 questions that we want to ask you. And one of us
7 leads off the questioning and does this, carries,
8 you know, the significant weight of the
9 questioning. And in this particular panel, that
10 will be Elissa Heinrichs.

11 So I will stop talking and turn the
12 floor over to the two of you and am interested to
13 hear what it is you have to -- impart your
14 wisdom.

15 (WHEREUPON, there was a short
16 interruption.)

17 CO-CHAIR JONES: The other thing, if I
18 didn't reiterate it, is you should probably
19 remove all cell phones, BlackBerrys, that kind of
20 thing from the table because it causes feedback
21 over there. And I'm going to ask everybody to
22 speak in a good, loud voice so that we make sure
23 that you're accurately and adequately recorded.

24 So having said that, I'll turn it over



1 to the two of you.

2 MS. JOHNSON: I'll start if you don't mind.

3 MR. LANGDON: Sure.

4 MS. JOHNSON: All right. I'm Beth. I'm one
5 of the staff attorneys at Cabrini Green Legal Aid
6 and the director of our criminal records
7 program.

8 What we do at CGLA is we help remove
9 legal barriers from criminal records through
10 direct representation, through education,
11 outreach, and policy advocacy.

12 We are a small organization. There
13 are very few legal aids in Illinois, even in
14 Chicago that are doing this work. The direct
15 representation we do comes in the form of
16 expungement and sealing, clemency petitions,
17 certificates, waivers, and claims under the
18 Illinois Human Rights Act for discrimination,
19 based on expunged or sealed records or arrest
20 records.

21 We have a vehicle that we meet
22 thousands of people a year at, and that's our
23 expungement help desk. It's located down in the
24 Clerk's Office here in Cook County in Chicago.



1 We've operated that help desk since I started at
2 CGLA in 2005.

3 We see over 4700 people there a year,
4 25 people a day. We operate with three to four
5 volunteer attorneys every morning.

6 What we do is people sign up, 25
7 people a day, and we look over their rap sheets,
8 determine what they're eligible for under the
9 law, assist them in filing the paperwork, and
10 start them through the process.

11 Less than 30 percent of them are fully
12 eligible to expunge or seal their records. And
13 records run the gamut. You have people that are
14 young, that have more recent offenses. You have
15 people with really old records. You have
16 individuals that have one offense. You have
17 individuals with 100 offenses. Everyone comes
18 from a different walk in life and the record is
19 for a different reason.

20 But the one thing that holds true with
21 an expungement and sealing, it's a black and
22 white law. You're either eligible for the
23 relief, or you're not. And the thing is everyone
24 we meet is gray. They don't fit nicely into



1 those two categories.

2 Expungement has been around in
3 Illinois since about 1930. And it's always been
4 the same. You can only expunge if you've never
5 been convicted, right?

6 Most of the individuals needing relief
7 have convictions on their background. And prior
8 to 2004, if you had a conviction, the only way to
9 remove that record was a pardon from the
10 Governor, even if it was a minor gang loitering
11 conviction, trespass to land, disorderly conduct,
12 it ran the gamut, less severe offenses to the
13 most severe.

14 And in 2004, our legislature passed a
15 sealing law, so it allows individuals with minor,
16 nonviolent, nonsexual misdemeanor convictions to
17 seal their records in the courts.

18 And there is three felonies in
19 Illinois that are eligible for sealing, three,
20 out of how many felony offenses are there, and
21 they're all Class 4, the lowest level:
22 possession of cannabis, possession of controlled
23 substance, and prostitution. That is it.

24 Any other felony conviction still has



1 to go to the Governor for a pardon, and any
2 misdemeanor that's violent, battery, you know,
3 soliciting a prostitute, anything like that needs
4 to go to the Governor's Office.

5 You know, so it's limited, it's very
6 limited. And a lot of people have to go through
7 the Governor to get relief from the past record.
8 Sealing is a step forward, but it's just a step.
9 It is not meeting the needs of communities.

10 There are alternative forms of relief
11 that are -- you know, some are new, some are
12 old. Certificates in Illinois are actually very
13 old. I remember it was like four years ago,
14 Margie had called me and said, Did you know in
15 your Code, there is some form of relief, a
16 certificate available? Have you ever heard of
17 this? And no, no one had ever heard of it.

18 You know, Safer Foundation, a great
19 organization here in Chicago, has worked hard to
20 have a better certificate of good conduct on the
21 books.

22 It was passed a few years ago. And
23 you heard Mr. Montes talking about it. I
24 appeared before him to get certificates. But all



1 they are is a piece of paper at that time saying
2 that you've been rehabilitated. The
3 effectiveness of them and my clients' desires to
4 get them were limited.

5 What do people want? They want their
6 records cleared. They don't want a certificate,
7 but that's because of the current society we live
8 in. Employers just don't know about them
9 enough. People aren't marketing them enough.

10 The law we have now on the books,
11 certificates, the beauty of them is they can
12 waive any statutory employment barrier. We have
13 hundreds of laws that, you know, Mr. Myrent's
14 group is working to inventory, hundreds of laws
15 that bar you with certain convictions to work
16 places.

17 Instead of our legislature amending
18 each and every statute to have a waiver, you have
19 one law that allows a court to waive any
20 barrier. That's where Darrell and I met
21 originally. He actually was one of our 4700
22 people at the help desk last year. And knowing
23 what was on his record, he could seal his record,
24 which is true. Sealing is limited though. Any



1 agency that by law has to conduct a background
2 check has access to a sealed record.

3 And even in Illinois, if your
4 conviction is pardoned, they say you can expunge
5 it, but it's only sealed. It is still released
6 to anyone that does a fingerprint-based
7 background check.

8 It's almost as if we are mismarketing
9 this form of relief. A governor's pardon should
10 go further than our sealing law, and it doesn't
11 currently. Legislatively, we could fix it. You
12 know, that time, we work a lot in Springfield to
13 improve our laws because we meet so many people,
14 we see so many stories, we are able to see the
15 barriers people face, and we keep a lot of data.

16 When we meet someone, we keep track of
17 how many arrests are in your record. What's the
18 year of your last arrest. What convictions are
19 barred from being sealed. What was the year of
20 your last conviction. How many convictions do
21 you have on your record because all too often,
22 when you're in Springfield trying to pass any
23 kind of reentry law, any kind of law that makes
24 it easier to move forward with your life, people



1 use the worst case scenarios to defeat that
2 legislation. It is so -- it is extremely
3 discouraging to work in Springfield here because
4 like Judge Biebel said, Chicago is a different
5 world.

6 You go down to Springfield, it's only
7 three hours from here, it is a completely
8 different world in terms of how people view
9 individuals. They don't get to meet
10 Mr. Langdon. They don't see the face that
11 everyone else knows. They see the worst case
12 scenario out there, so it's very hard to get
13 better laws passed.

14 But I mean, Darrell, if it makes sense
15 that you would just talk about you. And this is
16 an example of why we need laws like this. That's
17 not seen enough. Ta da.

18 MR. LANGDON: First, I want to give
19 gratitude to the situation where the system
20 actually works. I came to Beth. I had been
21 applying for a Chicago Public School position for
22 over two years. I recently worked there about
23 ten years ago. I worked there for 16 years.

24 And so I had left there voluntarily



1 because I took a buyout, took money out of my
2 pension and went into the mortgage business and
3 did quite well, frankly.

4 I was able to get an Illinois state
5 license, a broker's license. I was able to get a
6 producer's license for real estate, and I was
7 able to get an origination license. And all
8 those things have background checks. You know,
9 they just don't give them to anyone.

10 So I figured, you know, when the
11 mortgage industry crashed, then, you know, I went
12 back to engineering. My father got me into
13 engineering a long time ago. I'm a father of
14 five. I've raised five kids. My youngest one is
15 15, the oldest one is 28 and a graduate of
16 Bradley University. So I consider myself to be
17 an upstanding citizen.

18 First, I would like to give thanks to
19 Cabrini Green Legal Services and Beth Johnson who
20 you have to excuse my terminology, Beth is like a
21 bulldog on a soup bone. When it comes to getting
22 a job done, she was very tenacious. She looked
23 for every avenue that there was. When we hit a
24 brick wall, she said, Don't worry about it,



1 Darrell. We'll do this.

2 And so with Beth by my side, I never
3 faltered for hope. I always had -- as a matter
4 of fact, from the time before I even met Beth,
5 when I was turned down for Chicago Public
6 Schools, I had went through two years of
7 interviews. I passed the test. I was one of the
8 best to ever test and to be interviewed.

9 The chief engineer for the Chicago
10 Public Schools says I did the quickest time
11 ever. I think usually, they give about two hours
12 to do an interview and do a test. I think I did
13 it in about an hour and 20 minutes, so he was
14 very impressed with me. He was ready to hire me
15 right off the bat.

16 I had went through all of the testing,
17 all of the interviews. And that was a two-year
18 period of time. Plus, I had to get certificates
19 such as swimming pool certification and other
20 certifications in order to qualify.

21 After doing all that, they said,
22 Okay. You're hired. They gave me an
23 assignment. And they said at the last minute,
24 Well, you've got to take the background check and



1 the drug test.

2 I took the background check and the
3 drug test. The background check didn't come
4 out. The drug test came back great, of course,
5 because I've been abstinent for 23 years.

6 The background check came back with a
7 conviction from 1983 when I was convicted of a
8 half a gram of cocaine. It was actually less
9 than a half a gram of cocaine. They had to make
10 it a gram because they have to go up to the
11 next half a gram. They had to take it up to the
12 next thing which was about \$25 worth which was
13 powder cocaine for my own use.

14 I'm not making any excuses for it, but
15 I didn't stick nobody else. I've never done
16 anything that I'm ashamed of besides that. So
17 anyway, so when they told me that I couldn't get
18 this job, it just blew my mind.

19 So the first thing I did -- and the
20 lady for the Chicago Public Schools, she was very
21 apologetic. She was like -- you know, she was,
22 you know, I'm sorry. We have a statute that says
23 that you cannot hire people, this and that, that
24 and this. It's just cut and dry. There is



1 nothing I can do about it.

2 I said, Well, I can't -- then she
3 says, If you can get it expunged. And that's how
4 I met Beth. Of course, when I met Beth, you
5 can't get it expunged because it's a conviction
6 of -- you know, you can't get it expunged.

7 And so but still, I never gave up
8 hope. And Beth kept coming up with solutions.
9 She came up with -- they had just passed that new
10 law --

11 MS. JOHNSON: The certificate of good
12 conduct.

13 MR. LANGDON: Yeah, the certificate of good
14 conduct, they had just passed that law. I think
15 I was one of the first to ever get it.

16 We went before Judge Biebel. He was
17 very great as far as listening to me, giving me a
18 chance to explain myself. He took a look at me.
19 He didn't just stick me in a category with
20 everybody else, and so he found that I was a
21 reputable young man, and he gave me a chance, and
22 he gave me the certificate.

23 Then after that, we went back to
24 Chicago Public Schools, and they said, well, you



1 know, we don't care about that, you know. And so
2 we went back to Beth. I said, Beth, what's going
3 on?

4 So she said -- so Beth started
5 maneuvering again. So she called a few people,
6 got some people in line. And they knew some
7 people, this and that, that and this.

8 And she started with the Chicago
9 Tribune. And the reporter's name is Dawn
10 Trice?

11 MS. JOHNSON: Dawn Turner Trice.

12 MR. LANGDON: Dawn Turner Trice. And she
13 was very -- she was intrigued by my story. And I
14 was intrigued that she was intrigued, I mean, you
15 know.

16 But she was intrigued by my story.
17 And she came by my house. And, you know, we sat
18 down. And I explained it to her. And I think
19 Beth had an interview with her and everything.

20 So then she put it in the paper. And
21 then after she put it in the paper, she went to
22 the Chicago Public Schools, asking for their
23 comments. And the lady that I had talked to with
24 Chicago Public Schools was like, Wow. How did



1 these people -- and I kept calling her. I
2 kept -- I just didn't give up, you know. I kept
3 calling her, you know. She was like, This guy --
4 and so she kept wanting to know why are these
5 people interested. Why do these people keep on
6 calling me, you know.

7 And so because then -- because Dawn
8 Trice said, Because you didn't give this guy a
9 job because of something that he did way back
10 then, he has got a letter, a certificate of good
11 conduct from a judge, Cook County Circuit Court
12 Judge. And he hasn't done anything since. He's
13 been in good standing, so, you know, we -- and
14 you all passed this law basically saying that
15 you're looking for people that you try to give a
16 second chance to.

17 If this guy don't qualify -- and I
18 have to say this modestly -- if I don't qualify,
19 I'm telling you, I don't know who would, you
20 know, because I think that I've done everything
21 necessary in order to prove that, you know, I was
22 sick, you know. If alcoholism and drug addiction
23 is a sickness, and if I arrested my sickness,
24 then what's the crime really.



1 So I just want to thank -- this is a
2 situation where the system actually worked
3 because the Chicago Public Schools took another
4 look at it because we kind of basically put it in
5 their face and put it -- and the face for
6 everyone to see and kind of said put your money
7 where your mouth is.

8 And that's what they ended up doing.
9 They gave me a second chance, and they hired me.

10 For that, I would like to thank --

11 CO-CHAIR JONES: How long have you been on
12 the job?

13 MR. LANGDON: It will be a year in
14 November. On November 29, it will be a year. I
15 was working in a hospital up until that point.

16 Yes. So I want to thank Judge Biebel,
17 and I want to thank Dawn Trice for giving me --
18 you know, putting it in the paper, and I
19 definitely want to thank Beth Johnson. Beth
20 is -- me and Beth, we're going to do some more
21 business.

22 CO-CHAIR JONES: Well, we want to thank you
23 and both of you for those comments.

24 I will turn it --



1 MS. HEINRICHS: I have a question for you,
2 Mr. Langdon --

3 MR. LANGDON: Sure.

4 MS. HEINRICHS: -- about the response you
5 got from the school, really, the spokeswoman for
6 the school system after you received the
7 certificate.

8 She is quoted as saying that she was
9 unaware of what the Review Committee considered
10 when they made the decision to basically
11 disregard the certificate.

12 Do you know anything specific about
13 what this Review Committee was, and were you ever
14 given an opportunity to present yourself to them,
15 provide supplemental information to them?

16 MR. LANGDON: As a matter of fact, they
17 asked me before I even -- well, I was on pins and
18 needles waiting to hear back from -- well, I knew
19 I was going to get the job, but then when they
20 did the background check, they said -- they told
21 me to come back in three days later and come get
22 my assignment.

23 And then after that, they said, Oh,
24 no. Wait a minute. Don't come in.



1 So I knew something was wrong.

2 And then after about five days later,
3 then I says, Why are you all having -- you
4 know -- We're still checking some stuff out, you
5 know.

6 So then they sent me -- then I finally
7 kept calling them, so they says -- I forget what
8 her name was, but it wasn't the spokeswoman, it
9 was -- what was that --

10 MS. JOHNSON: The head of human resources.

11 MR. LANGDON: Cheryl, I want to thank
12 Cheryl, too, because Cheryl, Cheryl Colston, she
13 turned me down eventually -- I mean initially.
14 And she also was very apologetic and very -- she
15 was upset, too, but she couldn't do nothing about
16 it.

17 So anyway, I kept calling Cheryl. And
18 she says, Darrell, would you write us a letter
19 explaining what happened and this and that and
20 that and this. And then we'll see, you know,
21 maybe we could work this thing out.

22 Well, I wrote a letter and
23 explained -- I kind of chronologically explained
24 my addiction, my recovery, what had happened and



1 things of that nature, how I have bounced back
2 and how I have been an upstanding citizen so they
3 can see.

4 And so then after that, she said --
5 you know, then a couple more days went by. And
6 I'm on pins and needles. And I'm like, Whoa,
7 what's going on with this job.

8 So she finally came back. I think
9 this was even before I started working at Mercy
10 Hospital. So I was unemployed at this time. And
11 I had went through a whole two years. And I had
12 also interviewed for a hospital job, and so --
13 but the hospital hadn't called me yet.

14 So anyway, they called me, finally
15 sent me a letter in the mail saying -- you know,
16 she never would call. She said she was going to
17 call me back. She didn't call me back. She sent
18 me a letter in the mail telling me that she
19 couldn't help me.

20 And I just couldn't believe it. I
21 just -- and to this day, I never gave up. I was
22 like -- I don't know who they talked to. They
23 can't be talking to me because I can't see me not
24 getting this job. This is my job, you know what



1 I mean.

2 So -- and that's how I got in touch
3 with Dawn -- not Dawn, that's how I got in touch
4 with Beth, and that's how we started the
5 process.

6 MS. JOHNSON: And after the certificate was
7 granted, we didn't start by going to the media.
8 Basically, we started by sending a letter to the
9 background check review committee, outlining this
10 is a certificate he got. It's a new law. You
11 may not know what it means, but here is what it
12 means.

13 We're removing a barrier that you have
14 under a law, so you don't have to consider that.
15 You obviously wanted to hire Mr. Langdon. You
16 offered him a job.

17 And CPS is actually one of those
18 agencies that doesn't check the background until
19 you're offered the job. Right. That's the only
20 time they ask about a conviction.

21 We sent in a copy of the motion we
22 filed detailing all the rehabilitation of this
23 upstanding citizen. And they just -- that's what
24 they also rejected, so we did send in a lot of



1 supporting documentation after the certificate
2 was granted, too, and they still said no.

3 In one way, I look at it is that this
4 is an institution that historically has not been
5 able to consider convictions, so for them, it's
6 new. It was brand-new. They were so used to
7 seeing a certain conviction as being I can't hire
8 you. My hands are tied, which is why Cheryl was
9 apologetic because she knew he was qualified, but
10 by law, she couldn't hire him.

11 What we did was remove that barrier,
12 but it still let them have discretion in making
13 the decision to hire him. And their knee-jerk
14 reaction was no, so it took a while to get them
15 to where the fact that they have a policy on the
16 books on how to use that.

17 And think how much work that one
18 institution was to make them recognize a
19 certificate. It is just an uphill battle it
20 feels, but it was a big institution, right, it
21 was a big-enough institution that that will
22 hopefully affect others that will come after
23 Mr. Langdon.

24 MS. HEINRICHS: Now, how has the law been



1 changed? I don't mean the legislation down there,
2 but it looks like there is a law that's going to
3 be -- goes into effect January, 2012.

4 One thing that I noted about that
5 piece of legislation is although you have to
6 have -- be conviction-free for three years to be
7 eligible for a certificate, the school asks --
8 and I'm sure I'm not saying it correctly --
9 requires not only the certificate, but you have
10 to be conviction-free for seven years.

11 MS. JOHNSON: Seven years. Yes.

12 MS. HEINRICHS: Now, is that, in fact, the
13 new legislation?

14 MS. JOHNSON: I knew that the law said
15 before, you couldn't be convicted of a felony in
16 the last seven years, and that certain offenses,
17 including possessing drugs, was a lifetime
18 barrier, so I didn't know that as being changed.
19 But yes, I knew it was seven years for any felony
20 offense, but it was lifetime always for other
21 offenses such as drugs.

22 MS. HEINRICHS: Now, they came out with a
23 policy after you were, in fact, given the job. I
24 thought I read somewhere that they came out with



1 a policy -- this is a verbal policy -- that laid
2 out how they were going to review future
3 applicants with criminal histories. And it
4 seemed that legislation seems to shadow that, but
5 I wonder if you have any additional information
6 about did they show that with you, was that shown
7 in the media, a follow-up story?

8 MS. JOHNSON: The media. When Dawn Turner
9 Trice did the follow-up story, Chicago Public
10 Schools relayed their policy to her. And it was
11 seven years with no conviction. If they have an
12 enumerated offense, they have a certificate, they
13 only want one offense. They won't accept it for
14 multiple, even though you're legally eligible to
15 apply if you don't have more than two felony
16 convictions, but yes, it seems to mirror that,
17 that they will now consider older records if it's
18 been at least seven years.

19 MS. HEINRICHS: I think what's powerful
20 about your story, Mr. Langdon, is the fact that
21 you had the benefit of the media behind you, but
22 what it did was it actually changed things for
23 future applicants who don't have that. They
24 didn't have that.



1 MR. LANGDON: Right.

2 MS. HEINRICHS: But it really laid the
3 groundwork. And it could have just died, and the
4 next person could have come to your office and
5 maybe the media wouldn't have been as interested,
6 but this was groundbreaking.

7 MR. LANGDON: I hadn't played no part in any
8 of it, the process. All I did was not do too
9 much wrong. And that's basically all I did. And
10 I just led my life and I did it in a respectful,
11 decent type of fashion, which is the way I was
12 raised.

13 I have to give all the credit to
14 Beth Johnson and Cabrini Green Legal Services,
15 the Chicago Tribune, Ms. Trice, and Judge Biebel
16 who basically was like I said, was the system.

17 And also -- what's the other name from
18 the Board of Education -- Cheryl, Cheryl Colston,
19 also, who made the decision, she still could have
20 said no. She still could have said no, so I have
21 to thank her, also, the Chicago Public Schools
22 system for whom I am employed now.

23 MS. HEINRICHS: Well, you're being modest.

24 MR. LANGDON: Well, I give them all the



1 credit.

2 MS. HEINRICHS: You described being rather
3 aggressive, which was certainly helpful.

4 MR. LANGDON: Well, I hope that this makes a
5 difference in other people's lives. I'm just
6 grateful to be able to be a part of that, you
7 know, not only being a benefit, but to be a
8 blessing to somebody else.

9 God is good. And he put everything in
10 position in order to make things work, and so --
11 and even in my limbo -- now, I'm getting all --
12 but I got a job with the hospital that supported
13 me for two years until I was able to get that.
14 Just imagine if I had been there for two years,
15 you know, not able to get a job. And that job
16 was only paying less than half of this money
17 that I'm making at Chicago Public Schools and
18 doing about three -- you know, three times the
19 work.

20 And I didn't get the respect that my
21 credentials provide, you know, for my abilities,
22 so it's really a blessing. It's a situation
23 where the system actually worked. And in
24 today's society, that's something that went



1 right about it. Somebody ought to do a story on
2 that.

3 MS. HEINRICHS: I want to shift gears a
4 little bit.

5 Ms. Johnson, I was wondering if you
6 could talk a little bit about the Illinois Legal
7 Aid.org initiative that went into effect in
8 August. I'm curious to hear first how if you
9 could give us background and also describe the
10 differences in how it's being implemented in
11 Chicago versus the statewide program.

12 MS. JOHNSON: All right. Well, that's been
13 a project of theirs for over three years in the
14 making, designing this program. It's an
15 automated program where it basically walks you
16 through a series of questions, and based on your
17 answers, will just populate the forms and give
18 you the appropriate expungement or sealing. The
19 form is filed with the court. And right now,
20 it's specific to Cook County only.

21 Illinois Legal Aid online also offers
22 a lot of just information generally. And that's
23 great for individuals that can't receive legal
24 assistance, that can't make it to our help desk,



1 you know. There is limitations in the services
2 available.

3 I think the hardest part that
4 individuals face is the underlying information
5 you need to petition to expunge or seal. You
6 need to know your case numbers, dispositions,
7 arrest dates, charges, when did your sentence
8 end. So that's a useful tool, but it's hard to
9 get the information you need to go into that
10 tool.

11 And that's where you need attorneys.
12 If you knew what was on your record, you could do
13 this process more easily. The difficult part is
14 that background work because there is no central
15 database for all of this. There is a million
16 databases.

17 But the Illinois State Police, you
18 don't have to report every offense to them. When
19 you get a copy of your background check from the
20 State Police, you only get your convictions, not
21 your arrests. You have to use the clerk's
22 computers and the police records to account for
23 everything.

24 And each encounter with law



1 enforcement determines what you're eligible for.
2 That's where individuals find it difficult to get
3 all that information needed to determine
4 eligibility. But on top of that, what about all
5 the individuals that aren't even eligible for
6 that relief. It's a great tool, it's just
7 harder, the more arrests you have, the more
8 encounters with law enforcement, the less useful
9 it is just because it's difficult to get all that
10 information.

11 MS. HEINRICHS: If an individual comes to
12 your organization and bypasses the computer
13 program, what tool do you have -- used by the
14 system in Illinois, what tool do you have because
15 many times, our clients will come in, and they
16 don't know, they forgot what happened three years
17 ago and what county it was in, and they're not
18 sure what the disposition was, so how do you
19 access all that information to effectively
20 represent them?

21 MS. JOHNSON: A hope and a prayer. No.
22 What it is is a lot of it is self-disclosure. We
23 have access to all the Cook County records,
24 right. And the vast majority of the people we



1 see, the super vast majority, their records
2 occurred within the six municipal districts here
3 in Cook County.

4 However, county lines are blurry.
5 It's very easy to cross over in DuPage County
6 here and get an arrest, too. So a lot of our
7 questions, both in written format and when the
8 attorney sits down with an individual is, Do you
9 have any arrests anywhere else? Some will tell
10 us. Maybe they won't. But we explain why we're
11 asking.

12 When you petition the court, so and so
13 client, they are going to run a state and
14 national background check. And we're asking you
15 just so we're filling out the right forms. And
16 yes, we may mess up sometimes because of that,
17 because someone doesn't disclose for whatever
18 reason, misremembers. You know, it's not
19 intentional, the lack of information we get, but
20 it happens.

21 And, you know, part of what we do in
22 Cook County now is we're at the back end of the
23 process, too. We actually staff Judge Biebel's
24 call for the objection/expungement/sealing



1 petitions along with another legal aid, Chicago
2 Legal Clinic, so we are able to correct forms
3 that we might not have accurately filed as a
4 result, filing an expungement, but we have a
5 conviction in southern Illinois. We can switch
6 the orders over to a sealing petition instead,
7 but it's hard. It's hard for attorneys even, let
8 alone a pro se petitioner.

9 MS. HEINRICHS: And with a clemency
10 petition, in particular, a missed or a mid I
11 should say conviction can be held and will be
12 held against applicants. Is that the case in
13 Illinois where if you don't disclose something,
14 it's seen to be an act of dishonesty?

15 MS. JOHNSON: Yes. There is nothing
16 prohibiting an employer from asking in Illinois.
17 The only prohibition against asking about a
18 conviction is arrest records or expunged or
19 sealed records.

20 MS. HEINRICHS: Actually, I don't think I
21 was clear. The clemency, with the Board's review
22 of the application for a pardon, if they're
23 reviewing the application and they find that the
24 applicant omitted a prior conviction, that would



1 be seen -- that would be a basis for denial,
2 correct?

3 MS. JOHNSON: Oh, yeah. Detrimental to your
4 request, absolutely.

5 MS. HEINRICHS: And the other question I
6 have about Illinois and pardons, I practice in
7 Pennsylvania. And one of the things that we have
8 to instruct our clients about is when they are
9 asked to disclose what crime they are seeking a
10 pardon for, it does not matter if they dispute
11 the underlying facts, if they pled guilty because
12 it affects counsel, whatever, that's not -- the
13 petition is not the time to raise that argument.
14 You have to -- they have to take accountability
15 for the conviction. Is that the case in
16 Illinois?

17 And the second part to that question
18 is does the online program that's in place now
19 adequately ask the question when they are asked
20 to describe the conviction, the facts, the
21 underlying facts, is the question asked in a way
22 that makes it clear to an online applicant that
23 they need to take responsibility for it,
24 regardless of how they actually feel?



1 MS. JOHNSON: The online application does
2 not. It's available to the Prisoner Review Board
3 website, for example, that you can print off, a
4 pro se petitioner. It does not make that clear.
5 It just says describe the facts and circumstances
6 surrounding the conviction, period, right?

7 Individuals that are applying for a
8 pardon, it is very difficult if you're trying to
9 relitigate the case. Accountability, no matter
10 at what level, it's almost essential to getting a
11 favorable recommendation from the Board members.

12 Yes, maybe you weren't selling drugs
13 the day you were arrested and convicted of
14 delivery, but if you're willing to admit that you
15 were selling drugs every other day, that's at
16 least taking accountability of what you can. And
17 so we'll encourage our clients to do that.

18 In terms of for pro se petitioners, I
19 just don't think that's clear. The online
20 program you referenced earlier for Illinois Legal
21 Aid online, that's for expungement and sealing.
22 Otherwise, the Prisoner Review Board website just
23 says that one statement, describe the facts and
24 circumstances surrounding.



1 MS. HEINRICHS: So the online program
2 doesn't deal with pardons at all.

3 MS. JOHNSON: No, no.

4 MS. HEINRICHS: Oh, I misunderstood that.
5 Okay. Because that seemed to me to be a far more
6 complicated message to convey online. And I know
7 I read about the program, and they made it clear
8 that the questions that are asked of the
9 applicants are -- they're asked in such a way
10 that it's very clear. It's not petitioner, it's
11 what is your name.

12 MS. JOHNSON: Right.

13 MS. HEINRICHS: You know, and I didn't know
14 if there was a creative way to say, you know, to
15 ask some of the -- you know, to get some nuances
16 you have to have in your pardon application.

17 MS. JOHNSON: Yes. That doesn't address
18 pardons, that program. That doesn't address the
19 clemency, specifically, that online program.

20 We have information on that website
21 for individuals that are filing for clemency, and
22 we put in our description you need to describe
23 what happened and take responsibility for what
24 you can, but the vast majority of people applying



1 are pro se petitioners for a pardon through the
2 State of Illinois.

3 MS. HEINRICHS: Do you have a question?

4 CO-CHAIR YOUNG: Yes.

5 CO-CHAIR JONES: Vicki.

6 CO-CHAIR YOUNG: One quick question to
7 Mr. Langdon because you did mention that you had
8 gotten a job at the hospital while you were
9 pending what was going to happen with the school
10 district, is that --

11 MR. LANGDON: That's correct.

12 CO-CHAIR YOUNG: Okay. And in your
13 application to the hospital, did anything come
14 up, did they ask about a prior conviction, or
15 they knew about it and didn't care? How did that
16 work?

17 MR. LANGDON: They asked about it. I told
18 them.

19 CO-CHAIR YOUNG: Okay. And they said --

20 MR. LANGDON: The same thing with the
21 Chicago Public Schools. They asked, and I told
22 them.

23 CO-CHAIR YOUNG: Right.

24 MR. LANGDON: So it's really -- when I first



1 put in the application, I don't even think they
2 took that application until they -- it was
3 ridiculous, but anyway, right, I mean but I
4 disclosed it to the Chicago Public Schools right
5 off the bat.

6 CO-CHAIR YOUNG: No. I understand. I'm
7 just trying to say that sometimes they say, Well,
8 you know, because it's a vulnerable population,
9 we have to exclude people because it's a school,
10 but one would also say, well, people running
11 hospitals certainly could say --

12 MR. LANGDON: That's correct.

13 CO-CHAIR YOUNG: -- well, that's a pretty
14 vulnerable population, too.

15 MR. LANGDON: That's correct.

16 CO-CHAIR YOUNG: And so it was interesting
17 that you said well, the School District wouldn't
18 give me a job for this kind of conviction, and he
19 is working at a hospital.

20 MS. JOHNSON: Well, that Health Care Worker
21 Background Check Act governs hospitals. And
22 possession of controlled substance is not a bar
23 to working in hospitals.

24 CO-CHAIR YOUNG: Oh, okay.



1 MS. JOHNSON: Different statutes I think
2 would be the reason.

3 MR. LANGDON: I will say this. There was
4 another hospital I applied for, but my crime was
5 so small, and it was such a long time ago, I had
6 forgotten all about it, to be honest with you.
7 Loretto Hospital, they hired me. And I forgot to
8 put that down on the application. And for that
9 reason, they denied my application.

10 After they was ready to hire me, they
11 called me in personnel, they was ready to hire me
12 and everything, but to me, you know, it was --
13 you know, I went through a step of jobs. It's
14 the systematic one step at a time, documentation
15 I had to get and different jobs that I went in
16 order to get the job I got now, so to me, it was
17 all leading to one place, and that's where I'm at
18 now.

19 So I was disappointed, but then I
20 was -- you know, but then I said, Well, now, you
21 know, I know, step down, so I actually when I
22 forgot to put that information down, they denied
23 me, I went to the Chicago Police Department and
24 pulled my records, make sure that I would not --



1 this wouldn't happen again. And so that was just
2 one of the -- you know, so to me, it was just a
3 stepping stone to get me to where I needed to
4 go.

5 CO-CHAIR YOUNG: Okay. Thank you.

6 When we were looking for, you know,
7 people on the panel and different areas to cover,
8 it came to my attention that there were these
9 expungements and sealing procedures and
10 applications.

11 And the person I had spoken to said
12 that she thought that they were handled by the
13 State Public Defender's Office or someplace in
14 Springfield.

15 And so I went online to an office in
16 Springfield. And what I found was an information
17 sheet. And it basically said, we no longer do
18 these. And here is a list of attorneys that you
19 might be able to hire or to get to handle your
20 case.

21 And it sounds like Cabrini Green Legal
22 Aid, you know, may be able to serve an indigent
23 population, but most of the other names I saw on
24 that list seemed to say Law Office of, and which



1 I don't think they were on that list to be pro
2 bono.

3 MS. JOHNSON: No.

4 CO-CHAIR YOUNG: So how much of an indigent
5 population -- Cabrini Green can only serve so
6 many people. How big a need is there, and is it
7 being met at all for applications?

8 MS. JOHNSON: I think outside of Cook
9 County, it's not being met at all. We have a
10 legal aid here that serves the rest of the state
11 called Land of Lincoln. And they said, Well,
12 let's start dabbling in expungements.

13 And their very first case actually
14 went up on an appeal because the judge wouldn't
15 grant a fee waiver, saying this is criminal
16 work.

17 That's one of the biggest problems.
18 Legal Aid think they are prohibited by law from
19 doing this work because they're LSC funded. This
20 isn't criminal, right? Yes, it has to deal with
21 criminal records, but it's not a criminal
22 proceeding.

23 So somebody in legal aid that just
24 said, Oh, we can't do it. We're going to lose



1 our funding. So Land of Lincoln started pushing
2 that, right, and said, Well, we're going to start
3 doing this down in Carbondale. Southern Illinois
4 University is down there. And their very first
5 case went up on appeal, so it hasn't gone so well
6 so far.

7 MS. LOVE: You know, that's very interesting
8 because whether it's civil or criminal, I mean
9 these are kind of labels.

10 MS. JOHNSON: Right.

11 MS. LOVE: And I know that my old office in
12 the Justice Department was very clear that the
13 pardon process was a part of the criminal
14 process. It was not a civil proceeding.

15 And so I mean it wasn't really a
16 proceeding in that sense at all, but that -- I
17 mean we guarded our records, you know. Under
18 FOIA, these were part of the criminal case.

19 So I think that's a really interesting
20 issue. And I think it's one that we may want to
21 sort of think about.

22 And I know that the Federal defenders,
23 for example, cannot do these kinds of restoration
24 relief -- well, no, it's not a question of going



1 to court, it's a question of doing a clemency
2 petition.

3 And I'm working on one, in fact, with
4 a Federal defender here in northern Illinois, but
5 that's because they just decided to do it. And
6 anyway, but that's -- but no, I mean that's a
7 real problem because the defense community in
8 general doesn't feel that they can work on these
9 cases.

10 CO-CHAIR YOUNG: One other thing, the
11 defense office here is not a Federal defender,
12 it's a kind -- it's not a Federal employee, so
13 that might have a little bit more --

14 MS. LOVE: The Federal defender's office is
15 not a Federal employee?

16 CO-CHAIR YOUNG: Yes. The Federal
17 defender's office here, it's a contract. It's a
18 Federal Defender Association. It's not a public
19 defender office. You know, you might not know
20 the difference, but one is a Federal employee,
21 and one receives money and it's administered like
22 a 501(c)(3) or something, and so they may have a
23 little bit more loopholes.

24 MS. STRONG: I have a very quick question



1 for you, Ms. Johnson, which is you said --
2 initially, you said if perhaps the certificates
3 were marketed or the word got out, that more
4 people would seek relief. Are you seeing a way
5 that that could be done? Obviously, working with
6 the Chicago Trib was very effective in Darrell's
7 individual case.

8 Publicity, maybe outreach, how can you
9 get the word out to the people who would benefit
10 from it?

11 MS. JOHNSON: I mean the main way we get
12 referrals currently for certificate cases besides
13 screening and finding people ourselves in the
14 streets or at the help desk is through the Safer
15 Foundation, so they work with people with felony
16 convictions, and so they'll screen to see if
17 somebody is initially eligible and refer them to
18 us, but we're limited, too. I mean me and one
19 other attorney, Paul, who is here, that's it,
20 right, and we're able to serve a lot of these
21 people because of pro bono attorneys that are
22 helping us.

23 But right now, Cook County is coming
24 up with -- they have it drafted, a pro se



1 certificate of good conduct form that when
2 someone goes online, and it will be right next to
3 the expungement and sealing forms, they will also
4 find this, and it will explain what a certificate
5 of good conduct is. That will help, right, to
6 have a pro se form available because right now,
7 we write up a motion, we write up a pleading to
8 get into court.

9 How can you do that when you're a pro
10 se? It's easier to have some sort of template.
11 I think that will aid in getting the word out.
12 But again, that's just Cook County.

13 MS. STRONG: Is there a filing fee?

14 MS. JOHNSON: No.

15 MS. STRONG: Do you coordinate at all with
16 people, say, from Carol Morris' office, the
17 reentry program that her department has?

18 MS. JOHNSON: I'll work with IDES. It's
19 typically them referring individuals to us.

20 MS. STRONG: For --

21 MS. JOHNSON: Yes, to come look and see if
22 we can clear their criminal records, very vague,
23 see if we can clear your records.

24 We obviously do community outreach



1 where we'll speak to staff and stuff like that.
2 We do a lot of outreach throughout the city and
3 local areas.

4 CO-CHAIR JONES: Geneva?

5 MS. VANDERHORST: Judge Biebel was talking
6 about a lot of the expungement requests that he
7 looks at and whether he does a hearing of them in
8 chambers or not typically come from people who
9 have multiples in their background.

10 It seems the easiest thing to do is to
11 focus -- is to start outreach for the first-time
12 offenders, like people who are coming out of
13 the drug court program that we talked about,
14 people who are coming off of probation without
15 judgment cases, or any other kind of diversion
16 cases.

17 Give them just a little sheet of paper
18 that says there is something called an
19 expungement, and you may qualify for it. And
20 even if, you know, they get referred to, I think
21 it's a shame he had to wait until he applied for
22 a job, got hired, then got discharged, to find
23 out that an expungement was even possible. I
24 mean it just seems like such an easy public



1 service thing to do through the court.

2 So are there any barriers that the
3 court is putting up or anything else like
4 administrative issues that would prohibit from,
5 you know, writing it down, copying it, and just
6 having it there at the door, people can pick it
7 up as they go.

8 MS. JOHNSON: The PD's office does have
9 information they hand out that says you can go
10 get your rap sheet at 47th and Kedzie. You can
11 go look if your records can be expunged. There
12 is information. It's whether or not it's
13 consistently handed out in every branch court,
14 but it is available.

15 MS. VANDERHORST: Do you have to have a case
16 that's handled by a PD in order to get it
17 though?

18 MS. JOHNSON: Yes. It's a PD document.

19 MS. VANDERHORST: So it's not something that
20 someone who does not have a public defender can
21 access in the courthouse where their case --

22 MS. JOHNSON: Well, then they would have a
23 private attorney. The private attorney should be
24 telling them, right? If they don't have a public



1 defender, they have a private attorney?

2 MS. VANDERHORST: Yes. And no one is doing
3 it because it's considered post conviction, you
4 have to do another -- you can strike that.

5 MS. JOHNSON: I don't know why people aren't
6 doing it enough, you know. I feel a lot of
7 times, people will come to us, and they are told
8 they could expunge their record when, in fact,
9 they can't because yes, whoever represented them
10 on the one case before then, yes, that might have
11 resulted in a dismissal, and yes, if that was the
12 only thing on your record, that would be
13 expungeable, but that advice was provided without
14 looking at the rest of their record that might
15 have made them ineligible.

16 So there is -- alls too often, we meet
17 people that are so frustrated because they had
18 one lawyer tell them, their defense lawyer say,
19 Oh, expunge his record. It's easy. You just go
20 down to the Clerk's Office. You don't need to
21 pay me to do it, just go file it, and then have
22 another lawyer say, But you're really not
23 eligible. It's a very frustrating position I
24 think people find themselves in.



1 I think there are some defense
2 attorneys that they make it their job to not just
3 represent somebody, but to work about what
4 happens afterwards. It's not common enough
5 though I think is really what it comes down to.

6 MS. VANDERHORST: So when a judge puts a
7 person into drug court, they don't tell the
8 person that the result is that their case could
9 be expunged?

10 MS. JOHNSON: I don't know how it works in
11 drug court. That's a thing to explore. I think
12 that someone to talk to might be the Public
13 Defender's Office in the largest system here and
14 see how do you handle these things.

15 CO-CHAIR JONES: We are, as you can imagine,
16 over on time. Did you want to --

17 MS. LOVE: No.

18 CO-CHAIR JONES: Elissa has one last
19 question. That will be the last question of the
20 day.

21 MS. HEINRICHS: It's actually a comment
22 created toward some area of whose responsibility
23 is it to inform people of their right to an
24 expungement.



1 In Bucks County, Pennsylvania, for
2 years, they had a program, a pretrial diversion
3 program, ARD program. You're automatically
4 eligible for an expungement after your one-year
5 unsupervised term of probation.

6 The DA's Office had an interest in
7 confirming that you didn't have any subsequent
8 contact with police at the conclusion of your one
9 year, so they would run the criminal background
10 for anyone who was about to get off of ARD.

11 And if you did, in fact, qualify, they
12 would give the DA the file to take down to the
13 bench warrant hearing. And at the end of the
14 bench warrant, you would move for the expungement
15 of the various individuals whose files you had.

16 However, the former president judge
17 became the DA. And three months ago, he changed
18 the policy. And we're now getting in line with
19 the rest of the counties in Pennsylvania, and
20 now, we have to advise our clients that they have
21 to petition for expungement. But it was an
22 effective system, and it benefited -- the DAs got
23 something from it, the defendants got something
24 from it, and it didn't cost them anything because



1 they're just generating something from their
2 computer.

3 MS. LOVE: Well, they do that in Oregon.

4 MS. JOHNSON: Automatic expungements have
5 been proposed so often here and so often defeated
6 because of the very excuse that, well, we don't
7 know what else is on their background. Having
8 the prosecutor's office involved is a great
9 solution to that. Unfortunately, you're moving
10 away from this, that county at least.

11 MS. HEINRICHS: Yes. It is unfortunate.
12 And I'm not sure how they justify it, but if they
13 found that somebody had subsequent arrests, they
14 could bring them back in, they could violate them
15 for the first charge, prosecute them for the
16 second.

17 CO-CHAIR JONES: Well, listen, thank you
18 very much for coming down, taking the time to
19 speak with us. Congratulations --

20 MR. LANGDON: Thank you very much.

21 CO-CHAIR JONES: -- to both of you. And
22 keep up the good work, both of you.

23 Thank you.

24 We will reconvene here tomorrow



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morning at 9:00.

(WHEREUPON, the hearing was
adjourned until 9:00 a.m.,
October 21, 2011.)



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