

1 NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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8 REPORT OF PROCEEDINGS

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10 NACDL Task Force on Restoration of Rights and
11 Status After Conviction

12

13 Day 1 of 2

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16 Thursday, April 26, 2012
17 11:31 a.m. - 4:58 p.m.
18 McDonald Hopkins
600 Superior Avenue
Cleveland, Ohio 44114

19

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24

25 REPORTED BY DEBORAH C. FUREY, REGISTERED PROFESSIONAL
REPORTER, NOTARY PUBLIC, STATE OF OHIO

1 NACDL TASK FORCE MEMBERS:

2 Rick Jones, Co-Chair
Vicky Young, Co-Chair
3 Margaret Love
Geneva Vanderhorst
4 Lawrence Goldman
Christopher Wellborn
5 Penelope Strong
Elissa Heinrichs
6 Jenny Roberts, Reporter

7

8 PANEL I (Page 4)

9 Steve Vukmer, Regional Administrator, Cleveland Parole
and Probation
10 Diane Smilanick, Assistant Prosecuting Attorney,
11 Cuyahoga County Ohio
12 Ellen Shores, Director, Community Reentry Institute

13

14 PANEL II (Page 85)

15 Stephen JohnsonGrove, Deputy Director, Ohio Justice
Policy Center
16 Terry Tribe-Johnson, Reentry Coordinator, Summit
17 County, Ohio
18 Charles See, Executive Director, Community Reentry
Program, Cleveland
19

20 PANEL III (Page 138)

21 Marty Gelfand, Senior Counsel, Office of Congressman
Dennis J. Kucinich
22

23

24

25

1 PANEL IV (Page 164)

2 Jose Torres, Judicial and Medical Terminology Spanish
3 Language Interpreter

4 Tamara Jackson, Coordinator, Wayne-Holmes Reentry
5 Coalition, Your Human Resource Center

6 Mansfield Frazier, Executive Director, Neighborhood
7 Solutions, Inc.

8 Charles Gunnell, Volunteer, What it Takes

9 - - -

10 (Attachment: 6 pages of letters.)

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1 (Thereupon, the following proceedings were held:)

2 MR. JONES: All right. Good
3 morning and welcome, this is the third convening
4 of the National Association of Criminal Defense
5 Lawyers Task Force on Restoration of Rights and
6 Status After Conviction.

7 We are pleased and excited to be here
8 in Cleveland, in Cuyahoga County, and in the
9 great State of Ohio, where we understand and have
10 learned -- began to learn yesterday there seem to
11 be a lot of good things going on for folks who
12 are trying to restore themselves to status after
13 conviction and/or prison and are trying to
14 reintegrate and reenter society, so we're excited
15 to hear from you and the other panels we have
16 today.

17 Before we actually dive into the
18 substance of your testimony and the conversation
19 we hope to have with you, at the outset I would
20 like to do a couple of things: One is to thank a
21 number of folks for our being here.

22 First and foremost, obviously, is the
23 McDonald Hopkins law firm and both Dean DePiero,
24 who is a partner here, and Shawn Riley, the
25 managing partner, for their efforts and their

1 generosity, as well as Elizabeth Kelley, who many
2 of you may know, she's a Cleveland attorney and
3 also an NACDL board member and was very
4 instrumental in helping us put all this together.

5 And then finally, none of it would be
6 happening without NACDL staff, and that's largely
7 attributed to Angelyn Frazer, Obaid Khan and Doug
8 Reale and, obviously, Norman Reimer, who is the
9 executive director of NACDL.

10 Before we begin our conversation, I
11 think it's only fair that you know a little bit
12 about who we are, so I'll introduce myself and
13 then have each of my colleagues introduce
14 themselves in turn.

15 My name is Rick Jones. I practice
16 law in New York city. I run an organization
17 called the Neighborhood Defendant Service of
18 Harlem, and I'm on the faculty of Columbia Law
19 School, and I am one of the co-chairs of this
20 task force.

21 As I said before, we're pleased to be
22 here and interested to have this discussion.

23 MS. LOVE: My name is
24 Margaret Love. I am a private practitioner in
25 Washington, D.C.

1 I spent 20 years at the Justice
2 Department, eight of which were as United States
3 Pardon Attorney.

4 Most of my practice involves clemency
5 work, federal, for the most part, and so I have a
6 particular interest in the collateral
7 consequences of conviction and, in fact, I'm
8 co-authoring a treatise, an NACDL treatise, on
9 that subject.

10 MR. WELLBORN: My name is Chris
11 Wellborn. I'm from Rock Hill, South Carolina and
12 I look at this from really three perspectives.

13 I'm a former prosecutor, I
14 currently -- my practice is 100 percent criminal
15 defense, both state and federal.

16 Also I represent clients who this
17 directly affects and their families, but I'm also
18 involved at a community sort of level in my
19 hometown of Rock Hill, with the parents of
20 children that I coach who are going through these
21 issues and find myself periodically hearing it in
22 the area of that respect, as well.

23 MS. VANDERHORST: My name is
24 Geneva Vanderhorst. I have multiple reasons,
25 too.

1 I practice criminal defense work in
2 Washington, D.C. and I've done so for about 15
3 years.

4 I've seen clients go through these
5 issues, sometimes being able to resolve them and
6 sometimes not being able to do so.

7 I'm also a minister in Washington,
8 D.C. and so I've seen family members and kids who
9 have been affected by some of these issues as
10 well.

11 MS. STRONG: My name is
12 Penelope Strong. I'm a sole practitioner, and I
13 practice in Billings, Montana. I also practiced
14 in Wisconsin for a number of years.

15 I had three stints in the offices of
16 public defender, both in Montana and in
17 Wisconsin.

18 I am deeply interested in this issue
19 as it impacts the clients I represent, in terms
20 of criminal defense work, in other words, what is
21 going to occur with convictions they may obtain.

22 I also practice a significant portion
23 of the employment law and civil rights law and a
24 lot of my practice is devoted to criminal records
25 and background checks, and those people as well

1 as family members and their futures.

2 MS. HEINRICHS: My name is
3 Elissa Heinrichs. I practice in Bucks County,
4 Pennsylvania, but I was born and raised in Ohio,
5 I lived here the first 16 years of my life. I'm
6 on the Board of Directors of NACDL.

7 I started criminal practice as a
8 prosecutor, two years in Bucks County and since
9 then I've focused my practice on criminal
10 defense.

11 MR. JONES: I should
12 probably just say at the outset also, in the
13 interest of full disclosure, I'm a graduate of
14 The University of Michigan. Go blue.

15 We have actually been in Ohio and in
16 Cleveland, or at least some of us, for a day and
17 a half now and have had an opportunity to get out
18 into the community yesterday.

19 A couple of us went to the North Star
20 Neighborhood Reentry Resource Center, which I
21 thought was really a wonderful place, doing good
22 work. And then we also went to the Oriana House.
23 This morning a separate group went to the Judge
24 Nancy McDonnell Community Based Correctional
25 Center, and had an opportunity to tour there and

1 see the operations there.

2 So we're beginning to get a feel of
3 what you folks are doing here, in Ohio, and the
4 opportunities that exist for people who are
5 coming back into society.

6 The way that we operate these panels
7 is that we like to hear from each of you
8 individually, five, ten minutes or so by way of
9 introduction, who you are and what you bring to
10 the discussion, the benefit of your thoughts, and
11 then we have lots of questions.

12 Questioning is generally led by one
13 of our group primarily and then, to the extent
14 there is time, the rest of us will participate in
15 the conversation, as well.

16 For the purposes of this panel,
17 Elissa Heinrichs will lead the questioning.

18 So I'm going to now turn the floor
19 over to you. You guys can draw straws to decide
20 who wants to start, but we're excited to hear from
21 you and the floor is yours.

22 MS. SMILANICK: I am Diane
23 Smilanick, and I'm an assistant prosecuting
24 attorney for Cuyahoga County. I work for Bill
25 Mason, the head county prosecutor.

1 I've been an attorney since '85 and
2 went to John Marshall School of Law,
3 Cleveland State, and went to Cleveland State
4 undergrad with a double major in political
5 science and social work. I have worked for the
6 county prosecutors almost 21 years.

7 Most of my time has been spent in the
8 appellate unit and my functions there are many
9 and diverse, but as relates to this committee: I
10 do all of the expungement reviews and go to all
11 of the courtrooms for expungement hearings; and I
12 also review many of the post-release control
13 letters from the State of Ohio, and if -- so we
14 send a letter objecting; I also review all pardon
15 commutation, clemency applications that we will
16 eventually get in front of the governor of the
17 State of Ohio. So that's basically what I do.

18 Now do you want me to tell you more
19 about the expungement and --

20 MR. JONES: Yes, please.

21 MS. SMILANICK: Now, to start
22 this off, Ohio is one of the few states that has
23 an expungement sealing set of revised code
24 sections, and I've copied and given out a bunch
25 of these, our Ohio Revised Code. It starts at

1 2953.31 and it goes on down to about .55.

2 In Ohio, if you are a first offender
3 and have no other convictions except minor
4 misdemeanors and traffic convictions, and you
5 have no crime of violence or any sex offense
6 convictions, then within three years after you're
7 off probation, if it's a felony, you can ask to
8 get that expunged, if it's a misdemeanor it takes
9 one year.

10 The procedure is: The person, the
11 applicant files for an expungement, pays a \$50
12 filing fee. Most of the time they do it pro se,
13 or they go to the public defenders for some help.

14 Then the application gets filed, it
15 goes to the court, wherever that conviction
16 originated, and then the judge cuts an order
17 referring the person to probation for an
18 expungement investigation report.

19 Once that report is done, I, the
20 State of Ohio, gets it, the state reviews it,
21 meaning me. I decide whether the person
22 qualifies or not for the expungement.

23 If they qualify, I send something
24 called a no objection letter to the court. If
25 they don't, I send my brief in opposition as to

1 why they don't.

2 Now, our office reviews about a
3 hundred of these applications a week and about
4 more than 50 percent we immediately do not object
5 to.

6 Part of the statute, as you read, you
7 can also have a sealing of a not guilty, no bill,
8 dismissal, nolle, termination of case, and
9 there's no waiting time on that.

10 A dismissal usually comes out of one
11 of the court programs, pretrial diversion,
12 intervention in lieu of conviction, early
13 intervention program, et cetera.

14 Some of those programs, it would be
15 an automatic completion of the program, a
16 dismissal and then a sealing. Some of that never
17 even gets before me.

18 Again, there's no waiting time on
19 that as long as you have completed the program
20 or if it's a no bill and then it's -- there is
21 really no waiting time.

22 Some of the other little things that
23 the state would object to is that the people have
24 capiases, old fees, fines, court costs, and a lot
25 of times these are very old cases and the person

1 doesn't remember or realize they even owe things.

2 So a lot of times, even though the
3 state objects when they get that brief in
4 opposition, they would see they owe something or
5 have a capias. Usually those capiases are just
6 for traffic tickets and they can quickly get them
7 resolved.

8 I've been doing these things a long,
9 long time. A way to quickly resolve that is if
10 the people had public defenders or assigned
11 counsel that could quickly take care of it before
12 they even have to come to the court hearing,
13 because if the people would contact our office
14 and say, well, I got the capiases recalled or I
15 paid the fines or court costs, they just have to
16 send that to me, fax it, bring it down to my
17 office, and I withdraw my brief and you wouldn't
18 even have to go to court.

19 Now, the statute says there shall be
20 a hearing, and in reality if there was a hearing
21 on every single one of these cases, nothing would
22 get done, so that's why the state doesn't object,
23 and no one really would object to getting a no
24 objection letter, so they wouldn't need a
25 hearing.

1 Hearings are usually reserved for
2 people who have attorneys or really want to talk
3 to the judge, but this is a very strict statute,
4 it's a black and white law, this is not like
5 trying to get a plea deal after someone has been
6 indicted. There are specific things that cannot
7 be expunged, so there's very little negotiation.

8 Now, some people on an older case
9 will possibly file a motion to withdraw a guilty
10 plea or find some other way to change their
11 conviction in order the get it expunged.

12 That basically is, in a nutshell, the
13 expungement sealing statute.

14 Then I also -- what happens when
15 people are denied their expungement, but they've
16 led lives of an otherwise crime-free existence,
17 they're working, they have families, they've been
18 sober, free from drugs for 20 years but they
19 still have this conviction on their record,
20 they'll try for a governor's pardon.

21 In Ohio, Governor Strickland gave
22 about 30 to 40 percent of those people pardons
23 and/or pardon clemency meaning after they've
24 served their time and out, or some he gave
25 commutations, cutting their prison time and

1 releasing them. And Governor Kasich has been
2 doing some of that.

3 I think the philosophy in our office
4 and with Governor Kasich -- I can't speak for
5 him, I have never met the man -- let's get
6 everybody working, let's get everybody that can a
7 clean record so that they can get hired, they can
8 get a job, they're off the government safety net,
9 they're contributing, their taxes to help fund
10 all of the other programs.

11 I would think that's probably why
12 they passed the latest house bill changes to give
13 an employer a certificate of employability.

14 People who have been in prison, who
15 can't otherwise get an expungement or a pardon
16 right away have a certificate of employability.

17 So that in a nutshell is what I do.
18 I try off the record to help a lot of people
19 because I have a lot of pro se people calling me.

20 Now, I walk a very thin line here. I
21 cannot play defense attorney, that would be a
22 violation of my ethics, but I tell them what they
23 need to do to get the sealing, especially after
24 they get my letter saying why did I deny their
25 expungement, and I can't ever deny it, it's the

1 court that denies it, I just object.

2 I tell them what has to be done. I
3 tell them exactly the case numbers of the
4 warrant, a traffic ticket. I tell them exactly
5 what floor it's on. I try to do those things
6 because these people are desperate.

7 Some of these crimes are expugnable
8 but they have two or three other convictions
9 along the way, a lot of them are just misdemeanor
10 theft, underage drinking, and DUIs and all of
11 those will stop someone from sealing another case
12 that they really want sealed because then they're
13 not a first offender and you must be a first
14 offender in Ohio, under the statute.

15 That basically is it.

16 MR. JONES: Thank you.

17 MS. SHORES: I'm Ellen
18 Shores, and I'm with the Community Reentry
19 Institute.

20 I also have a for-profit real estate
21 company and I hire former offenders, usually
22 fairly recently out of incarceration, living in
23 halfway houses and such.

24 In both my real estate company and
25 the Community Reentry Institute we focus on the

1 most marginalized offenders, those that are the
2 hardest to place, the hardest to find housing for
3 and the hardest to employ.

4 Those are people that recent
5 legislation isn't covering, that are more or less
6 being excluded from a lot of the reentry programs
7 here in Ohio.

8 These are people that have so called
9 violent criminal pasts, maybe they had a gun
10 spec.

11 Specifically recently we've been
12 focusing on sex offenders and the affects of the
13 reentry impossibilities for those folks.

14 I am going to start by talking about
15 my work at the Community Reentry Institute first.
16 Hopefully I will get a few minutes to talk about
17 being an employer and what that's like, but if I
18 don't get to that, please ask me questions about
19 it. It's a very interesting position to be in.

20 The Community Reentry Institute, we
21 recognize, a group of us have recognized for
22 years, that the registry is, bar none, the
23 hardest hurdle for offenders coming out of any
24 kind of incarceration or even community control
25 to deal with. It is so pervasive in Ohio.

1 Ohio is the first to pass the Adam
2 Walsh Act, which has profoundly expanded the
3 registry and flipped on its head, the number of
4 people that were at one time considered low-level
5 offenders, to fill the ranks of the registry with
6 lifetime registrants.

7 These are people that have no way,
8 there's no means for them to get off the
9 registry. They're put on the registry by their
10 crime of conviction now, under the Adam Walsh
11 Act, not by their risk of recidivism, no
12 assessment.

13 In any case our research, where we've
14 done MediStudies and looked at the research
15 that's already out there, across-the-board, the
16 registry is wholly ineffective in deterring crime
17 and yet our estimates -- and we're going to be
18 doing more research on this -- our estimates in
19 Ohio are that the taxpayers are spending
20 conservatively \$32 million a year to maintain
21 something that we know is ineffective. Public
22 registry is just ineffective period.

23 In fact some studies are showing it
24 increases crime as registrants become unstable.
25 It prevents folks from getting jobs, from finding

1 houses, it creates sex-offender ghettos. It
2 profoundly affects the family members of the
3 offenders, their children, their wives. Children
4 are bullied on a regular basis.

5 We have reports that two-thirds of
6 all sex-offender registrants say that their
7 children are bullied on a regular basis; that
8 their wives are having issues assimilating into
9 the neighbors, keeping friendships, keeping ties
10 to their family members.

11 But what we're looking at doing is
12 putting a real number behind that, so we are
13 embarking on surveying sheriff's offices,
14 prosecutor's offices, other government entities,
15 to find out what the true cost to our community
16 is to maintain this.

17 We're also going to be asking about
18 measurable outcomes. We conjecture -- we are
19 almost sure that there are no benchmarks, there
20 are no outcomes that the registry -- the folks
21 that maintain it don't have to report. It's one
22 of the few criminal justice programs out there
23 where there's no accountability.

24 The public isn't being informed about
25 whether this is working or not. Research says it

1 doesn't but the entities that are governing it
2 and the legislature don't have them accountable
3 for that.

4 So we're looking into that and we are
5 looking at putting a number, like I said, behind
6 the registry, so that we can really get an idea
7 of what this is costing us.

8 We're also looking at the collateral
9 consequences of the registry, not only the
10 sanctions that government implements.

11 We know what our registry does on
12 paper. And for those who aren't from Ohio, I'll
13 just briefly go through some of the things that a
14 registered sex offender -- the barriers that
15 they're going to incur as a result of being on
16 the registry.

17 First of all you're going to be on
18 the internet and you're going to have to report
19 not only your address, where you live, but you're
20 going to have to report your employer's address.

21 So from an employer's standpoint,
22 that's not a real good thing, to have any address
23 listed on the profile of a sex offender. That's
24 going to be listed, not the name of the employer
25 but their address, and people can use a mapping

1 technology to find that employer's address on the
2 website.

3 I have to give all of the vehicles
4 that I have access to. If I have access to my
5 teenage daughter's car, I have to register her
6 license plate; I have to register if I borrow my
7 mother's car once in a while, I have to register
8 her license plate; I have to register any place
9 that I volunteer.

10 This is all easily accessible on the
11 internet with a touch of a keyboard. Not only
12 that, but every time I move.

13 MR. JONES: You have to do
14 that registry as an employer, as well?

15 MS. SHORES: The registrant
16 has to register my address, my employer's
17 address.

18 MR. JONES: Okay.

19 MS. SHORES: If I'm working
20 out of my home, my home will be registered.

21 MS. LOVE: When you're
22 speaking "you," are you speaking of you as a sex
23 offender?

24 MS. SHORES: Yeah, I'm sorry.
25 Let's say that Ellen Shores is a sex

1 offender, I will have to register my employer's
2 address, my daughter's car, my car, not just the
3 cars that are registered in my name, but it's
4 very exhaustive and it's all up there for
5 anybody, all of my neighbors, anyone, vigilantes
6 to see, Ellen Shores, the registered sex
7 offender.

8 If I move, e-mail alerts will go out.
9 It doesn't matter what level registrant I am,
10 e-mail alerts will come to the inbox of my
11 neighbors who have signed up to receive these
12 alerts, so the bell will be rung in advance.

13 Before I even get there, all of my
14 neighbors will know; my daughter's play dates are
15 over; there will be no interaction in my
16 neighborhood because I'm a registered sex
17 offender.

18 This is all we know about these
19 things: We know that Ohio has a one thousand
20 foot restriction around all schools for all sex
21 offenders, regardless, again, of any kind of risk
22 assessment.

23 We know that statistically this is
24 one area that, hands down, has been proven over
25 and over and over, restricting sex offenders to

1 the residency, where they live, has no impact on
2 repeat crimes.

3 It's about relationships, not about
4 where they live, and that 96 percent of all new
5 sex crimes will be perpetrated not by somebody on
6 the registry but by somebody who has never been
7 convicted of a sex crime.

8 These are all very hard facts,
9 they're out there, easy to find.

10 But mind, if I'm a registered sex
11 offender, my neighbors don't know that. All they
12 know is that a registered sex offender has now
13 moved into their neighborhood and that perhaps
14 they think that I live too close to a school.

15 In 2007, with the passing of the Adam
16 Walsh Act, that was extended to signed daycares
17 as well. So I can't, as a registered sex
18 offender, live within a thousand feet of any kind
19 of school or any kind of daycare.

20 It puts very -- especially in urban
21 areas -- very small areas that I can live in.

22 Some urban areas and municipalities
23 also have enacted their own ordinances.

24 For example, in Cincinnati, where I
25 live, they have a thousand foot rule around

1 pools.

2 There has been no correlation to sex
3 crimes in pools; there haven't been any incidents
4 of sex crimes around daycares or people living
5 near daycares; there haven't been bodies of sex
6 offenders standing outside of daycares, ready to
7 snatch children, it just hasn't happened, but
8 they passed these laws and this is what a sex
9 offender has to live within.

10 So we've created in Cincinnati
11 sex-offender ghettos. Some of these areas are
12 like two or three blocks wide, and so all of the
13 sex offenders live there.

14 Some municipalities, such as Lebanon,
15 have passed loitering bills. Those laws say that
16 sex offenders, for example, in Lebanon, can't be
17 within 300 feet of anywhere children might
18 congregate, a bus stop, a park, anywhere near a
19 school; they've banned sex offenders from the
20 libraries in Lebanon; they've banned them from
21 parks. It's very restrictive.

22 Basically the folks in Lebanon who
23 are sex offenders are prisoners in their own
24 homes, they really can't move freely at all, a
25 fear of being arrested.

1 People can do geographic searches
2 around their homes to find out where sex
3 offenders are, that technology is all there.

4 There's also government
5 institutionalized repercussions such as Section 8
6 Housing has a provision that any registered sex
7 offender that's registered for life is banned
8 from Section 8 Housing.

9 And with the implementation of the
10 Adam Walsh Act, those folks that are lifetime has
11 grown immensely, after the provision for the
12 Section 8 Housing went into effect. At that time
13 there weren't as many people on lifetime
14 registration, now there is.

15 What I think people don't understand
16 is all of the policy that is made around the sex
17 offender registry, it has become the go-to place.

18 If you are an organization and you
19 want to protect your members of your organization
20 or come across to the citizens in your community
21 as if you care about children and you care about
22 women and safety, go to the registry, implement a
23 policy; if you're a registered sex offender, you
24 can't be a member of our church; if you're a
25 registered sex offender you're child can't go to

1 our private school, this is a pretty common one;
2 people are being excluded, their children are
3 being excluded from private schools.

4 Insurance companies are saying they
5 will not insure homeowners if they have a
6 registered sex offender living in their home.

7 Again this is a registered sex
8 offender. They don't care if it is a sex
9 offender who is not on the registry, it's a
10 registered sex offender.

11 Summer Bible camps for kids, they
12 exclude kids if the parents are registered sex
13 offenders.

14 Volunteer organizations, even if the
15 volunteer organization has nothing to do with any
16 safety factor that you could even remotely relate
17 to a sexual crime, will ban sex offenders from
18 volunteering at all. If their children are
19 volunteering, they will ban the parents from
20 picking up the children.

21 If you are a Girl Scout in the
22 western region of Ohio, there's a good chance if
23 your parent is -- well, almost a 100 percent
24 chance -- if your parent is a registered sex
25 offender, your mom or dad's face is going to be

1 on a flyer that is going to be posted at your
2 troop meeting site. They have a policy to
3 post -- to do a one-mile search around all of the
4 troop sites and post flyers about those
5 registered sex offenders, and in many cases it's
6 the family members of the girls themselves.

7 This has made the news here and I
8 think it was Tennessee. They've even had sex
9 offenders arrested in front of the girls. This
10 further isolates these families and these
11 children.

12 The registry has had an off-label use
13 now. I call it off-label because security
14 companies, the ones that are going to sell you
15 your home security, they go door to door in Ohio
16 and they tell you that there's a registered sex
17 offender living at 123 Main Street, right around
18 the corner from you, so you need to buy our
19 security services.

20 There are private registry companies.
21 They mined the attorney general's registry and
22 they put it on their private site. Getting off
23 of that is virtually impossible. In fact, some
24 of these private registries are charging sex
25 offenders for removal. Even with a court order

1 they're not taking them off.

2 So somebody that has maybe been off
3 the registry for 20 years cannot get their face
4 and their information and their really old
5 address off of these private registries.

6 I also want to mention that it's
7 become really big business to promote the
8 registry by companies such -- I'm not going to
9 name any names -- there is one in particular that
10 has most of the contracts, has the contract here
11 in Ohio to manage the Ohio registry, and it's a
12 private company based out of Louisiana. They go
13 by several different names.

14 And they're making millions of
15 dollars in maintaining these databases and
16 selling to state the services like the e-mail
17 alert system, which, by the way, in the 400 pages
18 of the law, there is not one mention of the
19 e-mail alert system, it was something that was
20 sold to our attorney general by a private company
21 as a good idea.

22 I guess I'm just going to stop at
23 that. There are probably a lot of questions that
24 you might have for me.

25 MR. JONES: Did you want to

1 take a couple minutes and talk about what it
2 means to be a private employer?

3 MS. SHORES: Yes. I'll tell
4 you that it's tough. There are not too many
5 people that are willing to hire a sex offender.
6 If you're on the registry, you're looking at a
7 lot of unemployment.

8 I've taken a chance and decided in my
9 real estate company -- and it took a lot of
10 working with the halfway houses. They were not
11 interested in working with me, they really
12 weren't. It wasn't me, they were really just
13 incredulous that someone would actually say I
14 want to hire you're most hard-to-place offenders.
15 They couldn't fathom that.

16 I know that I'm risking having my
17 employer address listed on their profile. The
18 biggest hurdle I have, however, isn't the
19 registry in my -- I have accepted that my address
20 is going to be up there and I deal with that and
21 I've dealt -- my family members know, my
22 neighbors know, people who work with me know.

23 The biggest problem I'm having is
24 with the service providers themselves, the
25 halfway houses, not really supporting these guys

1 and trusting that they're doing a good job.

2 I have a lot of issues with probation
3 and parole officers putting a lot of pressure on
4 me as an employer, calling me up and giving me a
5 host of restrictions that these guys have to
6 have, going over and over, telling me what their
7 crimes were again.

8 I'm very open and it doesn't matter
9 to me. I know that these are really, really,
10 really good workers. These guys are so grateful
11 to get a job and it's a bonanza for me.

12 Right now I have an electrical
13 engineer, I have a machinist and I have a former
14 contractor working for me for \$8 an hour and they
15 work really, really hard. They're very grateful,
16 they show up on time, they follow the rules, they
17 do a great job, they're skilled workers and it
18 works very, very well.

19 But I have their parole officers
20 calling me up and saying, you know, they can't
21 work -- they have to be in abandoned buildings;
22 they have to never, never be around any children;
23 they can't be around any neighbors; they can't go
24 inside to use the bathroom; they have to be
25 supervised at all times; you need to be with them

1 every single minute; if they go to the store, you
2 need to go to the store with them and stand
3 outside of the bathroom and wait for them to come
4 out.

5 If I did not know what I know, I
6 would run fast, it's that hard.

7 You can have all of the employment
8 certificates you want. If somebody is listed on
9 the registry, they're not going to get a job, no
10 one is going to hire them.

11 Housing, huge, huge issue. Landlords
12 are misinformed about who they can actually have
13 in their apartment complexes and where they can
14 live, and so just across the board most landlords
15 simply will not rent to sex offenders, even if
16 they can legally live in that spot, even if
17 they're outside the thousand foot rule or they
18 committed their crime well before the law went
19 into place, it doesn't matter that the crime was
20 30 years ago. So we're looking at a lot of
21 homelessness.

22 The reason that a lot of these guys
23 are in the halfway houses or subsidized housing
24 is simply because of that. They're not risky
25 former offenders, they're homeless offenders,

1 they're jobless offenders, so we're paying a lot
2 of money to support them in halfway houses for 90
3 days, six months and more, when they have the
4 skills, they could be out working.

5 If it were not for the registry and
6 some of the pressures that are put upon them by
7 the system, they could move home with their
8 families or they could live in areas where they
9 could get more support.

10 So it becomes a vicious circle,
11 they're unemployed, they're not housed, so this
12 social safety net has to come in and pay for them
13 somehow to not be homeless.

14 Any specific questions about it?

15 MR. JONES: No. We'll come
16 back to questions at the end. Thank you very
17 much.

18 MR. VUKMER: I guess I will
19 hit on some sex offender issues here in a little
20 bit.

21 My name is Steve Vukmer. I'm the
22 regional administrator for the Ohio Adult Parole
23 Authorities, Cleveland region.

24 The Cleveland region is just one of
25 six regions in the State of Ohio. The Cleveland

1 region consists of Lorain, Cuyahoga, Medina and
2 Erie counties. I guess we'll jump back to that.

3 Just a little bit about myself. I
4 have a bachelor of science degree in criminal
5 justice studies from Kent State University.

6 I've been in the parole business for
7 about 27 years now; I worked about two and a half
8 years in the juvenile system; I was an adult
9 probation officer for a year; I was a state
10 probation officer here, in Cleveland, for six
11 years; for about nine years I was a supervisor of
12 our fugitive unit, that apprehended the offenders
13 that violated or committed new crimes; for eight
14 years I was a supervisor of a parole and PRC unit
15 in neighboring Lorain County; and I've been the
16 regional administrator here now for about the
17 last year and a half.

18 The Cleveland parole region, as I
19 mentioned, covers four different counties and has
20 ten different parole units in it.

21 We employ about 120 employees. In
22 addition to parole officers and supervisors, we
23 also have support staff and a lot of
24 specialists -- not a lot but we have a number of
25 specialists.

1 We have a sex offender specialist
2 that runs programming for sex offenders; a
3 chemical dependency specialist that works with
4 those that are chemically dependent; and a
5 reentry coordinator that creates new initiatives
6 and tries to work with offenders for their
7 reentry back into society.

8 As of last count, March 31st, 2012,
9 the region supervised 5,138 offenders on
10 supervision in those four areas and approximately
11 3,500 of those are here, in Cuyahoga County.

12 Just for those of you not from Ohio,
13 I loosely refer to parole. Parole is what we had
14 prior to 1996, indefinite sentences, five to 25
15 years, 10 to 25, they serve their five, their ten
16 years, the parole board would review it and when
17 they determined they were going to be released,
18 they would release them on parole.

19 If it was a five to 25, they got
20 reset for five, they still had 20 years remaining
21 on their sentence.

22 In 1996 the law changed and we now
23 have, instead of parole, post-release control and
24 that's actually now what the majority of our
25 offenders are, post-release control offenders.

1 Those offenders are sentenced to
2 definite sentences, two, three, four, five, ten
3 years, and they're released onto post-release
4 control after serving their amount of time, and
5 that could be anywhere from a year, three years
6 or five years, depending on the billing level of
7 the offense.

8 The only offenders that are still
9 given the old style parole are those that are
10 convicted on murder offenses. They get life in
11 prison and they're still on old style parole.

12 The idea of addressing collateral
13 sanctions, I guess, my understanding, it has been
14 a statewide issue but apparently it's a
15 nationwide issue that is kind of going around.

16 I know our director, Gary Mohr, is
17 going to be here tomorrow to talk about a lot of
18 the statewide initiatives.

19 I'll just discuss some of the things
20 that affect the local parole office.

21 I wasn't really going to hit on the
22 sex offenders, there is not a whole lot of
23 sympathy for the sex offenders, but since it was
24 bought up, I guess we can talk about that and
25 have some questions after it.

1 I know Ellen mentioned a little bit
2 about the parole officers being pretty tough on
3 the sex offenders, and actually, they are.

4 We have in this region, I think, 960
5 sex offenders on supervision, and she's probably
6 right, the majority of them don't reoffend,
7 they're generally easy to supervise, they follow
8 the rules and don't cause a lot of problems, but
9 when they do, they're front page of the paper and
10 every news organization is all over them.

11 So, yeah, we do have tighter reigns
12 on those offenders that are on parole,
13 controlled-release parole, for sex offenses. We
14 do monitor them much more thoroughly. We have a
15 lot more restrictions on them. We also have, as
16 she did mention, a lot of the same problems and
17 issues with them, when they come out, they have
18 absolutely no place to live.

19 Before an offender gets released,
20 they put in a parole plan, where they're going to
21 be paroled to. The parole officer that's
22 assigned that case will go out and investigate
23 and determine whether it's an appropriate place
24 for the offender to live.

25 Many times we have offenders that are

1 on for child sex offenses, that want to get
2 paroled back to their mother or a family member
3 and there's children living in the home, we won't
4 allow it.

5 Many times the residence is within a
6 thousand feet of a school, we won't allow it.

7 And I think, as she mentioned, some
8 cities have created their own ordinance.

9 I know the City of Lorain changed
10 their law to 1,500 feet of a school, that
11 included bus stops and playgrounds and everything
12 else that's on there.

13 So most of the places that the
14 offenders put down, many of them are just
15 rejected for legal reasons, they are too close to
16 a school or for other reasons; we won't allow
17 them to live there if their sex offense involved
18 a child and they're children living in the home,
19 we won't allow that.

20 I know you made some rounds and did
21 some tours of some places here, but we have, if
22 you get a chance -- 2100 Lakeside, here in
23 Cleveland, is a shelter where I think right now
24 we have about 54 homeless sex offenders living
25 there.

1 MR. JONES: We were told
2 about that yesterday actually.

3 MR. VUKMER: If they are from
4 Cuyahoga County and they have nowhere else to go,
5 we can place them at 2100 Lakeside. They can
6 stay there. It's a shelter where sex offenders
7 basically reside. It's an industrial area.
8 There are no schools around. It really hasn't
9 been an issue with the city.

10 I know in the City of Lorain, Ohio we
11 had a program set up where we were putting some
12 sex offenders into a halfway-house-type setting,
13 they were monitored and it was outside the one
14 thousand feet of a school, I think it was 1,200
15 feet from the school.

16 We had no problems there, everything
17 actually went pretty well there, but the
18 neighborhood didn't like the fact there were 20
19 sex offenders living in one house, so they passed
20 an ordinance and made it 1,500 feet and closed
21 the place down.

22 It's unfortunate because, like I say,
23 in the couple years that that was running, we had
24 no problems, no incidents, no reoffenses, it was
25 actually one of the better programs we had

1 running, but the neighborhood -- obviously nobody
2 wants it next to their house, so they closed it
3 down.

4 If we have offenders that give a
5 parole placement, a sex offender, if they're a
6 parole case, prior to the 1990 indefinite
7 sentence, if they have no approved residence to
8 live, we will not parole, they'll stay in the
9 institution until they can come up and find
10 something.

11 A lot of those guys are long overdue.
12 They will be a year, two years passed their
13 parole eligibility date because the parole
14 officer is attempting to find a suitable
15 residence for them.

16 It's not so much a problem in
17 Cuyahoga County because we get them in 2100
18 Lakeside, but it is a problem in a lot of other
19 areas.

20 Those offenders sentenced after 1996,
21 the controlled-release parole cases, they put a
22 plan down, where they want to live, also, and if
23 none of their plans are approved, they are
24 released on their out date regardless.

25 So no matter what, when their

1 five-year sentence is up, if it's up June 12th,
2 2012, they're walking out the door on that day.
3 They're released basically homeless to our office
4 and we try to find them housing afterwards.

5 Again, Cuyahoga County is fortunate
6 to have the 2100 Lakeside. But the other three
7 counties, Lorain, Medina and Erie counties,
8 aren't so fortunate.

9 We have some funding, I can put them
10 up -- if they're released homeless like that, I
11 can put them up in a motel for five days, so that
12 gives them five days to try and find something on
13 their own, at least they're out of prison.

14 Aside from the sex offenders, a lot
15 of the issues we have -- I was just going to talk
16 about those offenders on parole for felony
17 convictions -- we have a lot of child support
18 issues.

19 Offenders, while they're in prison,
20 their child support continues to accrue and
21 offenders may serve a number of years in prison.

22 When they are released onto parole or
23 post-release control, they have this massive
24 amount of accrual that has built up and they're
25 still required to pay their \$400 a month child

1 support, even though they're only making \$18 a
2 month as an inmate in the penal system.

3 Also, because they are so far behind
4 in their payments because they've been
5 incarcerated, their driver's license has been
6 suspended. So they have difficulty finding
7 employment because they don't have a driver's
8 license, and they don't have a driver's license
9 because they haven't been paying the child
10 support because they have been making \$18 a month
11 in the prison system for the last three or four
12 years.

13 I know the department is currently
14 looking for ways to halt or reduce the accrual
15 while the offender is incarcerated.

16 I talked about driver's license
17 suspension. Offenders in Ohio face many
18 convictions resulting in the loss of driving
19 privileges, even when there is no direct nexus to
20 a driving offense, so a lot of offenders on
21 parole or post-release control, that are not
22 paying child support, convicted of sometimes an
23 offense as small as trespassing or shoplifting,
24 have their driver's license suspended and they
25 are unable to obtain employment outside of a

1 walking or bus route and, again, I know the
2 department is looking into trying to find ways to
3 eliminate that unless there's a nexus to a
4 driving offense.

5 Fair-hiring practices, obviously,
6 guys on parole or post-release control have to
7 check the box at the top of every application
8 that they have a felony conviction.

9 I'm not sure about statewide, but I
10 know locally the city is looking at a ban the box
11 thing, where they're going to eliminate the box,
12 where they initially ask in the first question if
13 you have a felony conviction.

14 Certification and licensing
15 limitations. A lot of offenders go to prison,
16 learn some type of a skill, it was always
17 barbering. You know, you go to school, learn how
18 to be a barber, everybody comes out on parole,
19 they've been the prison barber, they're going to
20 get a job in a barber shop and the barber shop
21 says, yeah, we'll hire you as soon as you get
22 your license and the licensing board won't give
23 it to them because they have a felony conviction.

24 I've heard recently where other
25 prisons were working on asbestos removal,

1 teaching offenders how to properly go in and
2 remove asbestos. They learn that skill and they
3 learn how to do it effectively, get out and are
4 denied the licenses or certification to be able
5 to do that, so they can't get employed in that
6 manner anyhow.

7 I know it was mentioned the DRC is in
8 the process of issuing a Certificate of
9 Achievement and Employability.

10 I haven't seen it yet. I know it was
11 in House Bill 86, it's going to be coming around.
12 I haven't seen it in action.

13 I know the DRC is going to be
14 required to issue the certificate to eligible
15 offenders who have completed vocational training,
16 community service or engaged in rehabilitative or
17 educational activities.

18 Offenders that are issued the
19 certificates are potentially eligible now for
20 professional licenses, not guaranteed but
21 potentially eligible for it at least.

22 The department is working on some
23 legislation to provide departmental immunity in
24 connection with the claims for damages arising
25 from the issuance, denial, revocation or failure

1 to revoke a Certificate of Achievement and
2 Employability, and also working on a bill to
3 provide civil immunity for employers that hire or
4 retain employees on the basis of that
5 certificate.

6 The department is also required to
7 revoke the certificates issued to offenders who
8 are subsequently convicted of another offense,
9 other than traffic offenses or minor
10 misdemeanors. I know they're still in the works
11 of looking at what technical parole violations
12 are going to cause that certificate to be revoked
13 as well.

14 I just received an e-mail this
15 morning that House Bill 524 on collateral
16 sanctions was issued on Monday and was scheduled
17 for response or testimony before the House
18 Criminal Justice Committee, I believe, yesterday.

19 So a lot of issues that the
20 department is working on, to try to get passed,
21 is in this legislation yesterday.

22 I guess that's it. I'm not an expert
23 on collateral consequences, I've been to a couple
24 symposiums on it but if you have any questions,
25 I'll try to answer them.

1 MR. JONES: Thank you all
2 very much.

3 Elissa?

4 MS. HEINRICHS: I would like to
5 start by asking just a few questions about the
6 expungement process as it relates to Ohio.

7 How are juvenile convictions handled
8 in Ohio?

9 MS. SMILANICK: I don't handle
10 those but they're handled through juvenile court
11 and they can get those expunged as long as
12 they're not violent, sex crimes, but that's a
13 dichotomy because juvenile records are silent
14 anyway, except for a few specific instances.

15 Now a lot of people, once they become
16 an adult, will also ask that they be completely
17 sealed, and there's a whole other process for
18 that, it's in the revised code.

19 MS. HEINRICHS: You've mentioned
20 that there's an investigation that takes place
21 prior to the application reaching your desk.

22 MS. SMILANICK: Yes, right.

23 MS. HEINRICHS: That's handled
24 by which department?

25 MS. SMILANICK: Cuyahoga County

1 Probation Department.

2 MS. HEINRICHS: Are you familiar
3 with what their process is?

4 MS. SMILANICK: Yeah, they
5 interview the person, ask where they're living,
6 what they've been doing, if they're married, and
7 then they run their leads through BCI and get it
8 all over the country and locally, and that's how
9 they pick up if there's any other convictions or
10 capiases, and they put that all down on the
11 report.

12 MS. HEINRICHS: Do they also
13 speak to any co-defendant or alleged victim
14 you're aware of?

15 MS. SMILANICK: Pardon me? Any
16 co-defendant?

17 MS. HEINRICHS: Co-defendant, do
18 they seek input from victims in the case?

19 MS. SMILANICK: No.

20 MS. HEINRICHS: Is there any
21 input from your office prior to concluding the
22 report.

23 MS. SMILANICK: No.

24 MS. HEINRICHS: How long does
25 the report take, approximately?

1 MS. SMILANICK: Well, the whole
2 process could take about six months or longer,
3 and I think it's very lengthy because of the
4 amount of people trying to get their records
5 expunged.

6 I saw after 9/11 a huge uptick in
7 every employer checking for records, so they were
8 not -- most employers, I assume, were not
9 checking to see if a person had a DUI or a theft
10 conviction, they were checking for terrorism, but
11 it cast a big net and they got a lot of people
12 that had criminal records that no one knew about.

13 I had an airline pilot, they were the
14 first the government was checking, called me
15 crying, saying they showed up a drug case from 20
16 years ago. He had to have that sealed
17 immediately or else he would lose his job.

18 Well, immediately doesn't mean the
19 next day in the criminal justice system, so it
20 took a few months, and it got off his record, but
21 that I believe prompted this to explode in the
22 amount of people seeking a clean record.

23 MS. HEINRICHS: In Ohio is there
24 a central registry for maintaining criminal
25 records? Is that maintained through the state

1 police?

2 MS. SMILANICK: Well, the Bureau
3 of Criminal Identification and Information keeps
4 records on everyone.

5 MS. HEINRICHS: That's a state
6 agency?

7 MS. SMILANICK: Yes.

8 MS. HEINRICHS: Now, I think at
9 one point you said the law is very black and
10 white. Those might not have been your exact
11 words.

12 MS. SMILANICK: No, that was.

13 MS. HEINRICHS: Okay. In the
14 statute there's a provision about first time
15 offenders.

16 MS. SMILANICK: Correct.

17 MS. HEINRICHS: And it
18 explains -- rather it defines "first time
19 offender"?

20 MS. SMILANICK: Correct.

21 MS. HEINRICHS: It includes, I
22 guess, an explanation of when the act was
23 committed, it lays it out, but within that
24 provision it provides for judicial discretion in
25 determining if multiple offenses can in fact

1 count as one offense?

2 MS. SMILANICK: Correct.

3 MS. HEINRICHS: Can you provide
4 us with more detail about that and how your
5 office approaches requests that include fact
6 patterns that bring that into question?

7 MS. SMILANICK: Correct, that is
8 under Revised Code Section 2953.32(C)(1)(a). I'll
9 read this quickly.

10 "If the applicant has two or three
11 convictions that result from the same indictment,
12 information or complaint or from the same plea of
13 guilty or the same official proceeding and result
14 from related criminal acts that were committed in
15 a three-month period."

16 What that means is sometimes these
17 cases come at different times to the police but
18 they were like a string of incidents, a string of
19 thefts, breaking-ins, then they would package
20 them as a deal, I would think, for a guilty plea
21 and sentencing and indictments, but they could
22 have occurred on different days, but they're in
23 the same proceeding.

24 A lot of times the state would
25 consider that one conviction, but it has got to

1 be in a three-month period.

2 Or the convictions were not pled or
3 tried and sentenced on the same dates but they
4 were a continuous conduct.

5 Say it started in a municipal, where
6 the person was drunk, got a DUI and then smashed
7 into a police cruiser, so perhaps that would be
8 an assault on a police officer, maybe that would
9 be considered the same, continuous conduct or
10 somebody possibly wrote a bunch of checks that
11 had -- that did not have the sufficient funds in
12 their checking account to a different bank on a
13 different day throughout a three-month period,
14 that could possibly be considered one conviction,
15 but it's only in a very small time framework.

16 MS. HEINRICHS: As a policy does
17 your office generally write or rather brief those
18 petitions rather than writing the no objection
19 letters?

20 MS. SMILANICK: Well, it
21 depends. You know, it just depends. I have to
22 read the files and all of the facts.

23 MS. HEINRICHS: So your office
24 hasn't sent the no objection letters in cases
25 where there may be multiple offenses?

1 MS. SMILANICK: Correct, if it
2 fits that small framework.

3 MS. HEINRICHS: In reading some
4 of the cases that have gone to your higher
5 courts, it does appear that those tend to be
6 cases that are litigated.

7 I could be wrong in my interpretation
8 of that but the court has to find it's in the
9 public interest.

10 Is that the standard that is used?

11 MS. SMILANICK: No, I wouldn't
12 say that at all. They first find if the person
13 is a first offender or not and then, if that
14 crime fits into the allowable category, that's
15 the first thing.

16 MS. HEINRICHS: But within the
17 first offender provision, in determining the
18 multiple acts, within the judicial discretion the
19 judge has to determine that it's in the public
20 interest to deem it one act?

21 MS. SMILANICK: That's correct.

22 MS. HEINRICHS: I guess I'm just
23 trying to get a sense of whether or not your
24 office, in looking at applications that contain
25 some of the stickier details like that, if you

1 feel that those applications should, in fact, go
2 before judges and have the judge determine it,
3 rather than send a no objection letter.

4 I wanted to know if your office takes
5 a more cautious approach to these applications.

6 MS. SMILANICK: I review every
7 file if there is a question and go over it with
8 my supervisor.

9 You know, those cases are pretty far
10 and few between, that somebody even has a
11 continuous course of conduct.

12 What I find mostly, they have a
13 felony and a string of misdemeanors that have
14 nothing to do -- a lot of it is a felony theft, a
15 felony drug, and a couple of DUIs or underage
16 drinking, and that just stops any chance to get
17 that felony expunged.

18 I see a lot of it with 18 to 25 year
19 olds, that, you know, drinking, drugging, keep
20 doing it, keep doing it, and then they hit a
21 felony and then they clean up their act, many,
22 many times, but they can't get that expunged.

23 MS. HEINRICHS: What is your
24 office's role in the clemency process?

25 MS. SMILANICK: In what, please?

1 MS. HEINRICHS: The clemency
2 process.

3 MS. SMILANICK: A lot of people
4 file. I must get ten of these applications a
5 week.

6 We get something from state
7 probation, parole, a form, community
8 investigation form I think it's called, and we
9 review if a person should get a pardon or not and
10 we put down the state, if we recommend it, take
11 no position, or oppose it. And then that form
12 eventually goes to the Ohio Parole Board and then
13 they review the case.

14 MS. HEINRICHS: Okay. I'm going
15 to move on and I'd like to talk about -- I think
16 I would like to talk about your perspective as an
17 employer with the sex offenders.

18 I was interested but yet not entirely
19 surprised with your impression of the difficulty
20 in working with adult probation and parole
21 officers.

22 Have you had employees where you've
23 been required to release them from employment
24 based on the restrictions that have been placed?
25 Have they ever questioned the level of

1 supervision that has been offered through your
2 employment? Could you talk a little bit about
3 that?

4 MS. SHORES: Parole and
5 probation has not come down and said they can't
6 work with me, I've let them go before that would
7 happen. I have a pretty good idea what they will
8 and will not let the offenders do.

9 I'm on the Hamilton County Reentry
10 Coalition, so I talk to probation and parole
11 officers on a regular basis and have a good
12 relationship. I try to keep that relationship
13 going well.

14 So if they say that someone can't
15 work in an occupied building or even outside of
16 the occupied building, I don't want to ruin my
17 relationship with parole and probation or the
18 halfway house -- I may not agree with it -- so
19 what happens is I let them go.

20 If my next job is going to be working
21 on landscaping -- and I've even said, you work at
22 this house -- I generally have the guys show up
23 at 9:30 or ten and I have them leave at about
24 3:30, 3:00, so we're working mid day, and there's
25 no one home, there's no kids home from school,

1 there's no nothing, but if it's an occupied home,
2 sometimes parole or probation won't let the guys
3 work there.

4 So I have to tell the guys, I'm
5 sorry, next week we're working in the yard of one
6 of my houses that is occupied and, I'm sorry, I
7 won't have work for you. It happens quite
8 frequently. I usually get ahead of that. So
9 they lose their position with me.

10 MS. HEINRICHS: I just want to
11 ask one more question and I guess I'm going to
12 open it up, so if you have questions.

13 And, Mr. Vukmer, perhaps you can --
14 this question came from your statement about
15 there was a halfway house that was closed, I'm
16 not going to remember the specifics because the
17 community objected.

18 I'm interested in hearing what, if
19 any, efforts have been made -- successful efforts
20 hopefully.

21 Have there been efforts to work with
22 the community when objections first arise, to try
23 to -- they had an ordinance passed and I am
24 wondering were there any efforts to stop that?
25 Have there been any efforts since then to stop

1 similar ordinances by working with the community
2 preemptively?

3 MR. VUKMER: I guess I can
4 say the only experience I had with it was the one
5 in Lorain, and at the time there was talk that
6 the city council was going to get together and
7 they wanted to shut this down.

8 And we did meet with them and explain
9 to them why the offenders are there, how long
10 they are there, how long they are supervised. We
11 got some statements, I think, from the Lorain
12 Police Department, acknowledging they had never
13 been called there. There had not been any issues
14 with that particular program. There had not been
15 any increase in sex offenses in the neighborhood.

16 Yeah, we did attempt to but it really
17 was falling on deaf ears. The neighbors in the
18 neighborhood were going to city council and
19 wanted that thing shut down. They wanted those
20 sex offenders out of there.

21 The big problem I think that most of
22 them had with it or the problem that city council
23 had with it was not all of the sex offenders
24 living in that house were from their community.

25 So you have the City of Lorain and of

1 the 20 offenders there may be ten or 12 of them
2 were from Lorain and eight of them were homeless
3 guys that could find nothing in Cincinnati or
4 Lima, so they brought them up.

5 That's what they had the biggest
6 problem with, not all of these offenders were
7 from here, you're importing sex offenders into
8 the community. I think that was the deal breaker
9 on the thing.

10 You know, we discussed that with them
11 and talked about maybe keeping those out and only
12 allowing the offenders who were from Lorain and
13 by then it had already gained legs and they were
14 shutting it down regardless.

15 MS. SHORES: There have been
16 attempts when ordinances are being brought before
17 city council organizations like the Ohio Justice
18 in Policy Center, other advocacy organizations
19 have testified to successfully shut down the
20 extension of Lebanon's residency restrictions.

21 But then they turned around, in kind
22 of an eleventh-hour move, and passed the
23 loitering ban quickly. They weren't able to get
24 the residency restrictions extended, not getting
25 a lot of support from politicians and

1 professionals to educate the public about things
2 like residency restrictions, that they're
3 ineffective, that there's no correlation.

4 And even if they did, you know, if
5 you're a mom and you're scared and it's on --
6 it's the registry, it must be there for a reason,
7 right, I mean, they wouldn't be on the registry
8 unless they were dangerous -- he could testify
9 all day, a mom is still going to say I don't want
10 them there.

11 The thing that seems to be most
12 effective is to rally the family members of sex
13 offenders or community members and employers to
14 come testify on behalf and talk about what it's
15 like to have my dad on the registry and not be
16 able to live here. Those types of things seem to
17 be much more effective.

18 I also find, in the defense of
19 probation and parole officers, they've got a big
20 job to do and they don't necessarily fully
21 understand the law.

22 Many sex offenders can legally live
23 within a thousand feet of a school or a daycare
24 or a pool, if they committed their crime or owned
25 their home or lived in that home before the law

1 was passed, but I am finding that parole and
2 probation officers and halfway houses -- I have
3 at lot of trouble with the halfway houses.

4 I have a lot of friends in real
5 estate that will do me a favor and will take a
6 registered sex offender and maybe that place is
7 within one thousand feet of a school, but the
8 offender legally qualifies to live there, the
9 halfway house puts pressure on them not to live
10 there or won't tell them about the opening that I
11 have or their probation officer steps in and says
12 no, no way.

13 I understand it's low risk. The
14 recidivism rate at the national level is about
15 5.3 percent and even in our own state DRC says
16 it's 8 percent. That's a high number. 8 percent
17 is a low number for offenders and recidivism.

18 I think a lot of people know that but
19 like Steve attested to, it's low risk, really
20 high stakes.

21 If that one offender goes out and
22 even if he gets caught smoking pot, if he's a
23 registered sex offender, that could come home in
24 the media to roost in the lap of parole or
25 probation, so they have to do what they do to

1 protect their jobs, their department.

2 Many of them also I'm finding are
3 putting restrictions on folks that sometimes
4 don't make sense, it's a registered sex offender,
5 the crime was against an adult.

6 One example, a man was not being
7 allowed to see his own son. His crime had
8 nothing do with children at all and he had to go
9 before a judge and get the judge to order the --
10 in that case it was probation -- the probation
11 officer to let him see his son.

12 There is a lot of confusion out
13 there.

14 MR. JONES: Thank you.

15 Penny, any questions?

16 MS. STRONG: I have two
17 questions for -- is it Ms. Smilanick?

18 MS. SMILANICK: Yes.

19 MS. STRONG: The two
20 questions I have: We have some information on
21 the collateral sanctions bill that apparently is
22 moving through your legislature now, but to
23 clarify, in terms of the interplay for
24 expungements with people that have either
25 misdemeanor or felony convictions, if someone has

1 qualifying offenses, both in misdemeanor and
2 felony, can those both be expunged now or is the
3 new law set to change that?

4 MS. SMILANICK: I don't think
5 there's any changes yet in expungement and the
6 collateral sanctions doesn't have anything to do
7 with the expungement, those are two different
8 bills.

9 MS. STRONG: All right. So
10 let me clarify my question. If someone has both
11 a misdemeanor conviction and a felony conviction,
12 can they apply expungement on both of those or
13 are they limited to just one qualifying crime?

14 MS. SMILANICK: Well, the
15 problem with that is they wouldn't be a first
16 offender unless it was in the same spot, and a
17 real issue is I can say to the court this person,
18 the state has no objection to getting an
19 expungement and the judge agrees with me and
20 grants it and it's off all of the government
21 websites, yet the internet and whoever runs that
22 internet, I don't know, keeps publishing it, and
23 I have said many times -- I tell the folks in
24 court it still may come up on an internet
25 website.

1 If I was a defense attorney, I'd get
2 a class action suit against the internet because
3 they're usurping a government function, a
4 judicial function, that the court ordered
5 everything sealed, that they have government
6 control over, but we don't seem to have any
7 control over the internet, and that's pervasive,
8 throughout the country, on every issue.

9 So that person can get that
10 expungement and it still sometimes shows up on
11 the internet and then an employer sees it.

12 MS. STRONG: Thank you.
13 Exactly.

14 I have a question for Ms. Shores,
15 that is -- I'm just curious, I don't mean to be
16 intrusive -- how did you become interested as a
17 private employer with this issue? Did you have
18 an experience with a friend who had a sex
19 offender conviction? Can you enlighten us a
20 little bit?

21 MS. SHORES: Yes. I was
22 living a very idyllic, stay-at-home life after an
23 extensive career, staying home with my little
24 children, in a lovely, high-income community when
25 a sex offender moved in and I had no idea what

1 that would be like.

2 It was very divisive in my community.
3 We took sides. There was a lot of in-fighting,
4 fighting outside of school buildings about this.

5 The school got involved, the children
6 of the sex offender were bullied and ostracized.

7 I got a firsthand view of what this
8 was like and I started educating myself and
9 talking to folks.

10 It's not something I would recommend
11 someone get involved in, to become a researcher
12 or advocate on behalf of the most marginalized
13 pariahs of our society, it has not been easy, it
14 has not been fun, but it has been very fulfilling
15 to know that -- I feel like I'm doing the next
16 right thing.

17 I was like anybody else when I moved
18 from Minnesota to Ohio, the first thing I did --
19 my husband and I lived in an apartment for the
20 first six months we were here, while we were
21 looking at homes, I used the registry to find our
22 home.

23 Of course, the well-haled
24 neighborhood I moved into, there weren't sex
25 offenders.

1 So I was fine there were sex
2 offenders on the other side of the track as long
3 as they didn't live in my community, so I was
4 that mom. I was the mom that would have gone to
5 those community meetings and insisted that they
6 live 2,000 feet away from the daycare. I was
7 that person. I got thrown into it and I
8 connected with other community organizations.

9 Partners With Justice is a group of
10 parents that have adult children that have been
11 or are incarcerated and they have been profoundly
12 effected by their child's incarceration.

13 Generally these are young -- talk
14 about that age group, 18 to 25 -- young, black
15 men. So these are the families of young, black
16 men profoundly that are effected by these.

17 Many of them have been sentenced to
18 ungodly amounts of prison time because there was
19 a gun involved somewhere in the crime, maybe not
20 that child, son, adult -- they're adults -- but
21 this person is in prison now for 12 years or has
22 come out and has post-traumatic-stress disorder
23 and the whole family is involved, and it costs
24 all of their money for the legal defense for this
25 child.

1 My nextdoor neighbor -- let me tell
2 you about my nextdoor neighbor. When I moved
3 again in my community and I went to talk to my
4 neighbors about what I do, so that they wouldn't
5 find out what I do through someone else and have
6 a misconception, and it turned out my neighbor
7 was very, very open to it because her brother is
8 on the registry.

9 She said I didn't get to go to
10 college because my parents spent all of their
11 money on defense and post-incarceration legal
12 fees and fighting the registry and trying to
13 support him so he has housing his entire life,
14 that's why we're on food stamps today.

15 So that's how far this impacts. This
16 is the sister 20 years later still being impacted
17 by it.

18 Their daughter goes to school with my
19 daughter, she's not doing well in school. The
20 family is under stress and it is because they
21 have a relative that's actually in another city,
22 but the impact financially and emotionally has
23 effected that family and those are the things
24 that I see on a regular basis.

25 MS. STRONG: Thank you.

1 MR. JONES: Geneva?

2 MS. VANDERHORST: I want to thank
3 all of you for coming. I have two questions,
4 somewhat based on information I have learned from
5 other jurisdictions.

6 For instance, in other jurisdictions
7 we've learned there are some employers who don't
8 look at ex-offenders, whether they've been on the
9 sex registry or not, because they have insurance
10 issues or because they have to disclose to their
11 customers or their clients.

12 I wanted to know if you found that to
13 be the same here, in Ohio?

14 Also we've heard about 2100 Lakeside.
15 The public information that we've seen about it
16 suggests that it's open to women and children as
17 well, so we haven't been there but I wanted to
18 know if you could tell us any more information
19 about how that is set up, either one of you.

20 MR. VUKMER: Yeah, the place
21 where the sex offenders are, there are no women
22 and children staying at that facility, that I'm
23 aware of. They wouldn't be allowed to stay there
24 if that's the case. I don't know if they have a
25 separate facility for it, but, yeah, I'm not

1 aware of that.

2 MR. JONES: Do you know of
3 another facility besides 2100 Lakeside? There
4 was a second place we were told about yesterday,
5 the name escapes me.

6 MR. VUKMER: For sex
7 offenders?

8 MR. JONES: Yes.

9 MR. VUKMER: There are some
10 halfway houses, I think. The VOA. The VOA in
11 Mansfield and Cincinnati take sex offenders.

12 I think in Medina there's a place
13 called The Freese House, where a guy named John
14 Freese, I believe is his name, his son was in
15 prison on a sex offense, got to know some of
16 these guys and knew they were having some problem
17 with housing, so he bought a house and just let
18 all of the sex offenders that wanted to live
19 there go live there. It is not really
20 sanctioned, it's not a halfway house, but he did
21 that on his own.

22 MR. JONES: No. It will
23 come to me later. I'll have to look it up.

24 MS. VANDERHORST: What about the
25 employer, do you have to disclose to the owners

1 of the homes who are having work done?

2 MS. SHORES: I own the homes,
3 they're my homes, so.

4 MS. VANDERHORST: What about
5 insurance issues?

6 MS. SHORES: I haven't had
7 any insurance issues. I haven't called my
8 insurance company and said, hey, I'm hiring sex
9 offenders.

10 MS. VANDERHORST: There's like no
11 mandatory disclosure, where you have to say I
12 have sex offenders working with me?

13 MS. SHORES: Not at this
14 point, but let's not give the legislature any
15 ideas. Every year there is a plethora of sex
16 offender bills in front of us.

17 Where I bump into this, somebody gave
18 me a call and told me -- this has nothing to do
19 with employment -- there's an organization called
20 The Lindner Center of HOPE, and it's a
21 well-renowned mental health facility in Mason,
22 Ohio, and they across-the-board ban any sex
23 offenders from having any kind of treatment or
24 even coming onto their property.

25 If you call up and get the front desk

1 people, they will tell you it's because we serve
2 children, that's what their rote answer will be,
3 because that's what they believe.

4 It really comes from when the Lindner
5 Center of HOPE was trying to get their permit to
6 build their beautiful, beautiful campus, the City
7 of Mason demanded that.

8 There are restrictions I don't know
9 about. My insurance company may have that
10 restriction. I don't believe that there is any
11 Ohio mandate that I disclose that to my insurance
12 company.

13 MS. VANDERHORST: I think what
14 we've heard before is that it's like individual
15 insurance companies that would maybe not provide
16 a policy or require a higher premium if you're
17 hiring ex-offenders in general.

18 MS. SHORES: Right. Also, if
19 I have tenants, I do not have the sex offenders
20 or any supposed high-risk offenders come into the
21 homes.

22 Again, I hire them mid day, when
23 there's absolutely no one home. Some of the
24 houses are occupied, though.

25 I do not tell my tenants I have sex

1 offenders working on your yard. I know what
2 would happen.

3 But, you know, it's my home, and I
4 know I'm responsible for these folks and it's my
5 business. If I had recovering alcoholics working
6 there, I wouldn't tell them that, either.

7 Just an analogy about the residency
8 restrictions, there are no residency restrictions
9 for somebody that has multiple drug or alcohol
10 offenses to not live within a thousand feet of a
11 bar.

12 MS. VANDERHORST: Don't want to
13 give them that idea.

14 MS. SHORES: I don't want to
15 give them that idea either.

16 MR. JONES: Thank you.
17 Chris?

18 MR. WELLBORN: I have questions
19 for everybody. Starting with Ms. --

20 MS. SMILANICK: Smilanick.

21 MR. WELLBORN: -- Smilanick,
22 not a South Carolina name.

23 MS. SMILANICK: A very Cleveland
24 name.

25 MR. WELLBORN: Relating to

1 expungements in Ohio, is there a mandatory
2 expungement by right for charges that are
3 dismissed, mal pros or a finding of not guilty?

4 MS. SMILANICK: Is it mandatory,
5 no, but in pretrial diversion our office arranged
6 a program where a person goes into pretrial
7 diversion, if they're approved. And then it gets
8 dismissed, if the person has followed all of the
9 rules of it. It doesn't even come before me, an
10 investigation anymore, the judge just gives it,
11 because the judge has gotten an order saying the
12 person has fulfilled all of their requirements in
13 pretrial diversion, that's how they got this, you
14 can dismiss it and you can seal it then.

15 MR. WELLBORN: Outside of
16 pretrial diversion?

17 MS. SMILANICK: No, there isn't.

18 MR. WELLBORN: For instance, if
19 the prosecution makes a decision that the case
20 has no merit and dismisses, there is no right to
21 expungement?

22 MS. SMILANICK: No, they still
23 have to go through the interview, get a report.

24 MR. WELLBORN: And if somebody
25 for that instance goes to trial and it's either

1 judicially dismissed by way of directed
2 verdict --

3 MS. SMILANICK: Or not guilty?

4 MR. WELLBORN: -- or not
5 guilty, then if that person has a prior, they
6 would not have a right to expungement?

7 MS. SMILANICK: Oh, no, no.
8 Maybe I misspoke. Anything as far as not
9 guilties, nolles, no bills, dismissals,
10 termination, they can have as many of those
11 expunged regardless -- or sealed for that part --
12 if they have a multitude of other convictions but
13 it is not automatic, they still have to go
14 through the interview and get a report done.

15 MR. WELLBORN: So arguably even
16 on a dismissal or finding of not guilty, a brief
17 in opposition could be filed?

18 MS. SMILANICK: That is
19 extremely rare. I would have to see or the state
20 would have to see that they had a capias on some
21 other matter, and we would want that capias
22 cleared up, but 99 percent of those are
23 automatic, I say no objection after I review it.

24 MR. WELLBORN: Thank you. My
25 next question is for Mr. Vukmer.

1 You mentioned the licensing issues.
2 The sex offender issue, of course, is horrendous
3 for everybody involved, but just the issues
4 related to disqualification of driver's licenses,
5 is there any movement, that you're aware of, or
6 political will -- and I certainly don't mean to
7 disparage anybody -- on behalf of probation
8 officers statewide to try and do something to
9 sort of ameliorate or reform those laws?

10 But I can't imagine it's such a
11 picnic for you guys to have to supervise all of
12 these folks and deal with this mess, if it's a
13 mess that shouldn't be there to begin with.

14 MR. VUKMER: You're referring
15 to driver's licenses?

16 MR. WELLBORN: Right.

17 MR. VUKMER: I believe that
18 under House Bill 524 that's going through this
19 week it's cleaning up a lot of that and the
20 department's addressing that. I think that was a
21 245-page bill. I tried to scan through it this
22 morning more or less, but, yeah, I believe that
23 issue is being addressed now, yes.

24 MR. WELLBORN: I'm assuming in
25 Ohio, as in my state of South Carolina -- your

1 office is perhaps a little bit better staffed,
2 but mostly understaffed and overworked in terms
3 of the amount of things that you have to
4 supervise.

5 MR. VUKMER: Yeah, caseloads
6 are relatively high.

7 We had a big layoff last July due to
8 some budget cuts. I lost about a third of my
9 staff.

10 In the last month, I've had -- well,
11 on Monday I'll have my ninth parole officer
12 called back from layoff.

13 Caseloads should be much more
14 reasonable come next Monday, when everybody is
15 back onboard.

16 MR. WELLBORN: Have you found
17 at all that other than this one bill that you
18 refer to, that the legislators are at all
19 receptive to input from probation officers
20 regarding some of these issues that we've
21 discussed so far?

22 MR. VUKMER: I don't know
23 that they really get input from the probation or
24 parole officers. I think the input generally
25 comes from a little higher than that.

1 MR. WELLBORN: Do you guys have
2 your own organization or lobbyists that could
3 actually gain the attention of the state
4 legislature on some of these issues?

5 MR. VUKMER: The parole
6 officers have a union, so I imagine they could,
7 yes, but I can't say that they actually do.

8 MS. SMILANICK: Can I make a
9 comment further on the licensing?

10 There are a lot of licenses that are
11 not available once you have a conviction, and
12 even if you get it expunged, several licensing
13 places will still ask if you had it expunged.

14 The nursing board is extremely
15 powerful in Ohio and tough as opposed to the
16 attorney bar. I've seen people with felony
17 convictions who go to jail with gun specs and
18 eventually get their lawyer's certificate,
19 license back in Ohio.

20 I have nothing to do with any of
21 those cases but each licensing board has their
22 own criteria it seems and it doesn't matter what
23 the court does after someone is expunged. They
24 still decide if the person should get their
25 license back or not.

1 MR. WELLBORN: Thank you.

2 Have you, Ellen, had any luck at all
3 in terms of your situation as an employer,
4 forming coalitions with local law enforcement,
5 probation departments, local district attorney's
6 office or local politicians, in addressing some
7 of these issues which you're facing as an
8 employer?

9 MS. SHORES: Well, being part
10 of the Hamilton County Reentry Coalition has
11 certainly helped get my voice out there, and I
12 have good relations with the probation, parole
13 officers, both sides of the court, defense and
14 prosecutor.

15 I do try to keep good relations with
16 them. They could make my life miserable as an
17 employer, and it is hard enough as it is dealing
18 with all of the restrictions if I don't keep good
19 relations.

20 Yes, there are groups of us that have
21 formed together, mostly informal networks.

22 For example, if somebody needs
23 housing, I know who to call, and I do get those.
24 I get calls sometimes from the halfway houses,
25 sometimes it's just a mom. I've gotten some

1 calls from probation officers and such saying can
2 you find housing.

3 Of course I say yes, but if it's 950
4 feet from the school, the answer is no. Even if
5 the person would qualify, they just don't want to
6 take that risk.

7 I would like to see more coalitions,
8 more networking, more advocacy. I would like to
9 see some more professionals coming out and
10 talking to the media.

11 When a young reporter decides to
12 do -- like they did April 19th in the Dayton
13 Daily News -- a multi-page article prompted by a
14 Supreme Court ruling that says that juveniles
15 cannot be put on the public registry for life --
16 seems like a fair ruling to me, for the
17 children -- prompted a young reporter of the
18 Dayton Daily News to do a four- or five-page
19 report not about that law, that just sort of
20 started the conversation, but really about how
21 many horrible sex offenders are living within a
22 thousand feet of a school or daycare because of
23 this horrible loophole.

24 Then he goes on to interview a
25 particular director of a probation department in

1 the county, who encourages everybody to go out
2 there and look on the registry to protect their
3 children.

4 I would like to see more
5 professionals educate themselves and either not
6 comment or say, hey, it doesn't matter where
7 offenders live, what you really need to worry
8 about are the relationships your children are
9 forming and understanding who your children are
10 with and start changing the conversation to real
11 ways to keep our children safe.

12 MR. WELLBORN: Thank you.

13 MS. LOVE: This is
14 fascinating. I have to say I really appreciate
15 all of the candor. I have a couple of questions
16 for Ms. Smilanick.

17 I'm frankly curious, is the way that
18 your office handles expungements and assigning a
19 lawyer particularly to it, is that common in the
20 State of Ohio, in DA's offices?

21 MS. SMILANICK: We don't assign
22 lawyers, it would be up to the public defenders.

23 MS. LOVE: I'm talking
24 about what you do. You're assigned?

25 MS. SMILANICK: Yes.

1 MS. LOVE: You're assigned
2 to handle the caseload?

3 MS. SMILANICK: Yeah.

4 MS. LOVE: That's what I
5 meant. You have a DA's office who's interested
6 enough apparently to actually assign one of the
7 senior lawyers to handle that caseload and I just
8 wondered.

9 It appears that you have a fairly
10 positive attitude toward sealing -- I'm a little
11 reluctant to call it expungement, that's a funny
12 term, I want to ask you about that in a minute,
13 too -- I just wonder whether other DA's offices,
14 whether there was a statewide approach to sealing
15 an expungement by prosecutors?

16 MS. SMILANICK: That I don't
17 know, but we probably are the most active. We
18 review every case.

19 I have my own secretary that pretty
20 much just does all of the expungements, to try to
21 keep up with it.

22 I mean, I'm in court -- I have a
23 booklet with all of the different courts, all of
24 the different times every day, in four or five
25 floors, I'm running up and down, because there

1 are so many people that want a clean record.

2 MS. LOVE: When you say
3 that you get about a hundred a week and you sort
4 of automatically approve about half of those --

5 MS. SMILANICK: Correct.

6 MS. LOVE: -- those are
7 ones that you take a look at and they appear to
8 be eligible?

9 MS. SMILANICK: Correct.

10 MS. LOVE: So it's a
11 threshold eligibility determination, the other
12 50 --

13 MS. SMILANICK: Are ineligible.

14 MS. LOVE: I see, of that
15 50, some of them could be nos?

16 MS. SMILANICK: No, say there's
17 a hundred a week --

18 MS. LOVE: Yeah.

19 MS. SMILANICK: -- that's on a
20 busy week, half of them immediately qualify and
21 the other half probably don't.

22 MS. LOVE: I see, so you're
23 basically making an eligibility --

24 MS. SMILANICK: Correct.

25 MS. LOVE: -- first

1 offender decision?

2 MS. SMILANICK: Correct.

3 MS. LOVE: I wanted to ask
4 about the effect of a sealing order.

5 I have a personal concern about how
6 far you can deny something that happened in this
7 internet age.

8 When someone has their record
9 sealed --

10 MS. SMILANICK: Correct.

11 MS. LOVE: -- are they
12 allowed to say that they have never been
13 convicted?

14 MS. SMILANICK: Yes, they are,
15 and we advise them. After the judge rules that,
16 yes, I agree with the state and I'm granting
17 this, I say you can tell people you've never been
18 arrested and you've never been convicted.

19 MS. LOVE: That's a lie.

20 MS. SMILANICK: No, it is not.
21 Expungement, it has never been.

22 MS. LOVE: I know that but
23 literally it is a lie, and it's interesting,
24 because if that record is available, whether it's
25 on the internet, whether you can Google

1 somebody's name or however you find it, somebody
2 who sees someone who says I have never been
3 convicted and then you find the record, it looks
4 like that, that's all I'm saying.

5 MS. SMILANICK: Well, that is an
6 issue, but it's nothing -- I can't control that,
7 the court can and somebody out there has got to
8 deal with that.

9 MS. LOVE: Right.

10 MS. SMILANICK: Maybe a class
11 action suit. I don't know the rules on how to
12 get that stopped, but I also advise people to
13 keep a certified copy of that court order with
14 them at all times, to prove to a potential
15 employer.

16 Now, what has happened on a lot of
17 these employment applications, it says two
18 things: Have you ever been convicted and if you
19 get the expungement, you can say, no, I haven't.

20 Like the nurses and some other, the
21 bar, the lawyer's bar, will ask have you ever had
22 a sealing or expungement, then you're going to
23 have to say yes.

24 MS. LOVE: Well, can
25 anybody ask that? I mean, I would think that

1 everybody would ask that now.

2 MS. SMILANICK: Well, they
3 don't.

4 MS. LOVE: But they could?

5 MS. SMILANICK: I guess they
6 could but I only see it with certain groups.

7 MS. LOVE: I want to ask a
8 question about the sex offender registration.

9 I was just looking at the law and
10 trying to see who has to register for how long,
11 because I would have to go to look at all of the
12 offenses through the hyperlinks to code sections.

13 Are there different gradations of sex
14 offenses in Ohio?

15 MS. SHORES: Yes, there are.
16 Actually we have two systems now. We have what's
17 commonly called Megan's Law, and I'm not a
18 lawyer, but this is what I know: There are three
19 levels under Megan's Law, there's sexually
20 oriented offenders who register for ten years;
21 there's habituals who register 15, 20 years; and
22 then there's sexual predators who register for
23 life under Megan's law.

24 That was supposed to be based on
25 assessment of risk or the number of crimes that

1 you have committed. You don't have to be
2 habitual if you committed, you know, a couple,
3 but you had to have a predator hearing to become
4 a predator. There was a lot of problems with
5 that, but it was somewhat a risk-based system.

6 Along came the Adam Walsh Act, like I
7 said, it flipped everything on its head.

8 The Adam Walsh Act puts people into
9 tiers based on crime of conviction. So what we
10 consider a low level, pandering child --
11 soliciting child for sex, child pornography,
12 things like that are in the first and second
13 tier.

14 First tier, I believe, is ten to 15
15 years, second is 25 years, and Tier 3 is life,
16 and those are what our society would consider
17 more heinous crimes, rapes, things like that.

18 MR. JONES: We are sadly out
19 of time. I'm about to lose our tape.

20 I see that lunch is in the back, as
21 well, so folks, you're welcome to go get that.

22 This has been fantastic. We could
23 really go on for another 30 minutes or more. We
24 haven't even gotten to all of the questions I
25 would like to discuss with our folks.

1 I want to thank you for being here
2 and sharing with us and spending this time. It
3 has been very useful and productive to us. Thank
4 you very.

5 - - -

6 (Whereupon there was a recess in
7 the proceedings from 1:03 p.m. to
8 2:03 p.m.)

9 - - -

10 MR. JONES: All right.
11 Let's get started. We're going to reconvene. We
12 now have, of course, our second panel of the
13 afternoon. Welcome to all of you. We're pleased
14 to have you here, looking forward to an
15 interesting and lively discussion.

16 The way that we operate, for those of
17 you who weren't here from the first panel, is
18 that we give each of you five or ten minutes or
19 so to introduce yourself and give us the benefit
20 of your thoughts and then we have lot of
21 questions for you and are going to try to get as
22 in-depth as we can around these issues with you
23 and get the benefit of your expertise.

24 The way that we do the questioning is
25 that one of our number will lead the questioning

1 and ask the majority of the questions of you, and
2 then, to the extent there is time, the rest of us
3 will be able to get in on the action.

4 For the purposes of this panel, Margy
5 Love is going to be our lead questioner, so I
6 will turn the floor over to you. You can decide
7 amongst yourselves who is going to go first, but
8 the floor is yours.

9 MR. SEE: I yield to the
10 lady at the table.

11 MS. TRIBE-JOHNSON: I yield to
12 Stephen. Stephen knows everything.

13 MR. JOHNSONGROVE: Thank you. My
14 name is Stephen JohnsonGrove, Deputy Director of
15 Policy at the Ohio Justice and Policy Center.

16 The Ohio Justice and Policy Center is
17 a non-profit, non-partisan law firm that
18 represents people who have been marginalized by
19 the criminal justice system, and it works and
20 advocates for local, state and national smaller
21 crime reform.

22 Our office started as a prisoner
23 rights firm, used to be called Prisoner Rights
24 Advocacy Project, but we've branched out into
25 reentry, this issue of the legal issues faced by

1 people coming out of the criminal justice system.

2 Actually, our very first foray into
3 that was some federal legislation against sex
4 offender cases. We were one of the first in the
5 country to get one of those invalidated.

6 Later we also added on more on a
7 front-end side a prevention, reentry, a youth
8 focus and an indigent defense improvement
9 project.

10 Although we are a very small shop,
11 we're really the only thing like it in this
12 state, that works across the whole criminal
13 justice system, on both individual
14 representation, class action and policy advocacy,
15 and research as well.

16 So I started on the reentry side. I
17 still am on that aspect of our office. I work on
18 these legal barriers faced by people with
19 criminal records.

20 I began by running our outreach legal
21 clinics around Cincinnati, which we still do. I
22 now supervise those, another attorney runs them.

23 We serve 600 or so, 700, people a
24 year who come in to talk to us about any legal
25 barrier they face.

1 We do them not at our office but at
2 soup kitchens, community centers, that sort of
3 thing around Cincinnati.

4 Out of that experience our office and
5 me personally were able to branch into more the
6 policy aspect and getting involved in policy
7 reform. So both the research and straight
8 legislative advocacy or just negotiations, I've
9 been able to do a lot of different things in that
10 realm.

11 I'll just talk a little bit about the
12 clinics. I want to just clean up a couple little
13 facts related to expungement that came up in the
14 last panel.

15 Number one, Margy and I were talking
16 at lunch about this, definitely different
17 practices around the state in prosecutor's
18 offices. You have certainly one of the more
19 progressive counties here and you should know
20 that, that you're a very progressive county
21 relative to the rest of Ohio, and that it extends
22 into the way the criminal justice system operates
23 and the way -- for example, the abundance of
24 resources you saw invested from general fund
25 dollars on reentry yesterday as you drove around,

1 that's a unique thing in this state.

2 Now, there are definitely other great
3 examples and Terry from Summit County and others
4 from Lucas County can say that.

5 Hamilton County is kind of inching up
6 and when it comes to the prosecution practices,
7 very different, as well, very much opposed to
8 expungement generally and we'll object frequently
9 to that sort of thing, so that's something I know
10 from the hundreds and hundreds of expungements we
11 work on in our office.

12 I won't get lost in the weeds on
13 that. If you have any specific questions about
14 that, please ask me.

15 So in terms of the policy issue --
16 one other thing I just want to clean up also,
17 this is just a little tiny issue of state law:
18 The statute that says you can pretend as though
19 it never happened after you got the expungement,
20 that by statute only applies to the
21 non-conviction expungements.

22 The statute, 2953.60, only says that
23 that is relative to non-convictions, not to the
24 convictions. You can't say relative to
25 convictions even if they are expunged, let's make

1 that clear. I want to clear the air there.

2 So my office's advocacy work began
3 with a local campaign to get a fair-hiring policy
4 adopted by the City of Cincinnati.

5 Mindful of my colleague and friend,
6 Margy Love here, I am a stickler for language and
7 don't like "ban the box," I think it's a
8 misnomer, because that's just not what happens,
9 the box doesn't get banned, it just gets delayed,
10 that is the question of criminal record.

11 It's a municipal civil service hiring
12 reform and we delay when the background check
13 happens.

14 I think it's a good delay and it's
15 appropriate, the policy is great, a great idea.
16 Let's call a spade a spade.

17 Our fair-hiring policy in Cincinnati
18 does three major things: Number one, all of the
19 job postings will say clearly what convictions
20 are absolute barriers, not because the city is
21 being mean but because state or federal law
22 already says so.

23 For example, we were doing a big
24 construction project on our sewer system in
25 Cincinnati and it was funded by Homeland

1 Security, actually, because they were concerned
2 about bioterrorism, so there was a federal
3 restriction.

4 So any job posting that the city puts
5 out related to that sewer project will say
6 specifically what are the offenses, and that's
7 important for self-selection, right, so people
8 don't have to guess whether or not this
9 conviction is going to create a bar.

10 The second thing is the part called
11 "ban the box." There is no question anymore,
12 either verbally or on the written application
13 about criminal records up front. This is, again,
14 municipal.

15 And then that question is delayed
16 until the very end, after you take the civil
17 service exam and are passed and after you are
18 interviewed and they extend a conditional offer
19 of employment, then they say we're going to do a
20 background check.

21 And then the third and a very
22 important part -- and this very much synchronizes
23 with the EEOC policy we're all familiar with --
24 there are factors that the city must consider
25 when it does do the criminal background check.

1 We find a record, it causes us some
2 concern, we're going to vet it using these
3 commonsense factors: How old is the offense; is
4 it related to the nature of the job; what is the
5 record of rehabilitation that the applicant can
6 bring forward, things of that nature.

7 I don't have it all in front of me
8 but that's the basic structure of the fair-hiring
9 policy, that whole basket of kind of changes.

10 The City of Cincinnati adopted that
11 August of 2010. Since then I've consulted with
12 this county and you're going to hear from Natoya
13 Walker Minor tomorrow, who I gave all of my
14 material to, and I think they were the next place
15 in Ohio to adopt one, that was Cleveland, here.

16 Since then Hamilton County and
17 Cuyahoga County is my understanding, both have
18 adopted it as county hiring and I am consulting
19 with other cities and counties around the state
20 to adopt similar hiring policies.

21 So that was my first foray into
22 policy change. It was a local-level-type policy
23 change and I'm trying to push that as far as I
24 can around all the state.

25 The other aspect of this, the other

1 venue for which I've been able to do a lot of
2 policy change, has been at the state level. That
3 really began as a result of DRC itself. You're
4 going to hear from Director Mohr but it was
5 before him.

6 We have a long history of very
7 progressive DRC directors, beginning with Reggie
8 Wilkinson and then Terry Collins after him, and
9 for a brief moment we had Ernie Moore and now we
10 have Gary Mohr, one after another. Although
11 there may be issues definitely.

12 Our office sues the prison system all
13 the time, so believe me, I'm not diluted into
14 thinking they are wonderful all to time.

15 But in terms of being progressive
16 about reentry, they have been stellar, and that
17 has created various opportunities, including in
18 2008 something called House Bill 130 that passed
19 and that created something called the Ohio
20 Ex-Offender Reentry Coalition.

21 That sounds sort of grass rootsy and
22 it definitely is not. It's 17 state agencies, a
23 state statutory-created body, that are mandated
24 to meet on a regular basis to talk about and
25 review and analyze all of the barriers to

1 successful reintegration into the community after
2 imprisonment.

3 This includes agencies as diverse as
4 medical licensing, drug and alcohol services,
5 department of development, Board of Regents,
6 mental health, veteran's affairs, so all sorts of
7 17 state agencies on this board with DRC as the
8 chair and they meet regularly and are quite
9 active.

10 And DRC, while the directors have
11 changed, there's a man who is really behind all
12 this and his name is Ed Rhine -- I don't know if
13 you are going to hear from him -- but he's like
14 behind the scenes. He is the man in Ohio who has
15 had the vision of how this is going to happen.

16 I really think it was his vision to
17 create House Bill 130. It was his vision to see
18 this coalition created and then to realize the
19 value would be to push that down to local
20 coalition.

21 So DRC has been very active in
22 fostering local coalitions such as Terry's in
23 Summit County or in Hamilton, Franklin County.
24 DRC has been the one pushing those and that has
25 sort of pushed this issue out and sort of the

1 professional attention to this issue throughout
2 the criminal justice system and throughout, you
3 know, just general community.

4 I really hand it to DRC as sort of
5 seeing how this long-term, slow persistence has
6 yielded a lot of fruit.

7 Well, as a result of that, one of the
8 charges, as I mentioned, to this reentry
9 coalition in 2008 was to review, analyze,
10 collect, something like that, all of the
11 collateral consequences under Ohio law.

12 I jumped on that because I was
13 invited early on to be part of that and I
14 immediately sniffed an opportunity.

15 I had already seen a couple examples
16 of catalogs of collateral sanctions.

17 In fact, in 2005 the University of
18 Toledo in our state did one. A couple intrepid
19 law students went through Ohio Revised Code and
20 combed out 404 state statutes, but it was a pdf,
21 it was a law review article, right, a chart,
22 hundreds and hundreds of pages, you couldn't
23 really search it, it wasn't really useful to an
24 defender in the heat of the moment, you know, the
25 prosecutor's office gives me this plea versus

1 that plea, which one is better for my client, I
2 don't know.

3 But it was a valiant first step and
4 the best probably that could have been done at
5 the time, but I wanted more than that, and I had
6 seen sort of a working model of what I thought in
7 Minnesota was a collateral sanctions database, it
8 wasn't quite that, but it gave me the idea for
9 what became our civic database, which you have a
10 handout in front of you, one page, that describes
11 our civic database.

12 In 2010 I was successful in getting a
13 grant from the Ohio State Bar Foundation and DRC
14 itself, our corrections system invested some and
15 a few others since then have invested in this
16 project.

17 To my knowledge it is the first of
18 its kind in the country to go public and live, to
19 have the complete state's collateral consequences
20 available online.

21 It's interesting in the sense it
22 allows you to search specifically, put in a
23 specific criminal offense and get a list of all
24 of the collateral consequences triggered by that
25 offense or search for a right or privilege, let's

1 say a nursing license or I want to be a
2 veterinarian, and then find the law that governs
3 and then find a list of all of the offenses that
4 create barriers for that right or privilege, so
5 it's really useful for practitioners.

6 It has also yielded all kinds of
7 policy opportunities, because it really shines a
8 bright and precise light on this whole morass of
9 collateral consequences. We've gotten all kinds
10 of opportunities to change state law.

11 The other handout you have in front
12 of you is the culmination of that work, which is
13 House Bill 524. That just got introduced two
14 days ago and you have hot off the presses a
15 summary that I whipped up, really whipped up, so
16 it's not the best, it's what you got. I thought
17 a one-pager would be handy to have for today's
18 conversation.

19 The flagship proposal in that is
20 something I took reference from Margy's work and
21 honestly her colleague in that work, Alexander
22 Schimmer, who is the Solicitor General of Ohio.
23 They were part of the drafting team for the UCCA,
24 as we all know.

25 We took out from that Section 10,

1 which is the Orders of Limited Relief, and that
2 has been, with some modifications, put in this
3 bill.

4 I guess the folks on this panel know
5 something about that.

6 MR. JONES: Steve, one of
7 the most disagreeable parts of my responsibility
8 as chair is to watch the clock.

9 MR. JOHNSONGROVE: Good.

10 MR. JONES: So we're going
11 to run out of time ultimately, so I'm going to
12 have you have you wind it down and we'll come
13 back to you with questions.

14 MR. JOHNSONGROVE: That's fine.
15 That is where I was going to end. There's the
16 bill, you have the handout in front of you, if
17 you have questions about that or anything else
18 I've said.

19 MR. JONES: Thank you. Very
20 much.

21 MS. TRIBE-JOHNSON: My name is Terry
22 Tribe-Johnson, T-r-i-b-e, like the Cleveland
23 Indians -- may they reign -- except I'm Canadian,
24 my husband's American.

25 I have the privilege of serving as

1 the Summit County Reentry Coordinator.

2 In Summit County there was a reentry
3 effort that was begun in 2004, 2005. By 2007 a
4 strategic plan was drafted.

5 Everything was put on the desk of a
6 person who worked at United Way and consequently
7 the whole effort wilted because that person was
8 already too busy, let alone to take on a
9 community-wide initiative like reentry.

10 In 2009 the effort was actually
11 reinvigorated by Summit County Board of Health as
12 part of our Summit 2010 and now it's a Summit
13 2020 plan, under executive Russ Pry, who really
14 does push looking at the whole picture of
15 wellness of the community, which includes
16 reentry, the wellness of people returning home
17 from incarceration and their families and the
18 general public. It's been very interesting.

19 The Summit County Office of Reentry
20 opened September the 10th, 2010, when I walked
21 into an office and there was a desk with no
22 chair, no filing cabinet, nothing, no computer,
23 and we really did start from grassroots.

24 And one of the first things I did was
25 call Louis Vasquez from Cuyahoga Office of

1 Reentry and said let me introduce myself, I hear
2 things are far more advanced in Cuyahoga County,
3 what do I need to do first?

4 I also called the Ohio Department of
5 Rehabilitation and Corrections.

6 Prior to assuming this position, I
7 had done a lot of research on reentry myself,
8 having worked with Oriana House, a
9 community-based correction and treatment facility
10 that's in Summit County and Cuyahoga County, and
11 reentry makes sense, and they interviewed several
12 people and I really was glad to get the job.

13 Pulling it together the last 18
14 months has been rewarding and very challenging.

15 Some of the things that came out are
16 the needs of the people and I would like to speak
17 a little bit today about what we've been able to
18 do in Summit County.

19 I see them coming under the areas of
20 advocacy, marketing on behalf of reentry and
21 information purposes.

22 Out of the needs of the people -- and
23 I'll say that we are just in-process of getting a
24 database written for us by a research department,
25 so that we can keep track of who's calling about

1 reentry, how are they getting the information,
2 what are some of the statistics about people,
3 because the United Way wants that, they're one of
4 our funders.

5 We saw over 770 people in the last
6 year, received contact from, either they phoned
7 in, they e-mailed in, they came to one of our
8 groups.

9 The one group that came out of the
10 Friday night group is a Friday Night Reentry
11 Resource Seminar -- or excuse me -- yeah, a
12 Friday, once a month, a reentry resource seminar.
13 That's actually a job search seminar that happens
14 on the fourth Friday of every month. Again, very
15 grassroots.

16 It replicates to an extent the Star
17 Forum that's held here, in Cuyahoga County.
18 However, the Star Forum in Cuyahoga County is for
19 people coming out of ODRC facilities, and in
20 Summit County we are much smaller, our numbers
21 are smaller.

22 We wanted to be available to people,
23 have our reentry service providers available to
24 people who are returning home on supervision or
25 not on supervision, but more than that we have

1 hundreds of people in Summit County who have
2 convictions in their history that still are not
3 settled, be they misdemeanors or felonies, and so
4 their families aren't settled, and it's chaotic
5 for these people to try to put the pieces of the
6 puzzle together.

7 Our Friday reentry resource seminar
8 is for anyone that has a misdemeanor or felony in
9 their history, who's struggling to get
10 employment.

11 We draw together, very willingly, a
12 number of service providers every month with a
13 theme. We attempt to have some theme which is
14 addressing the barriers to employment.

15 So I brought the page with those
16 themes on it, if anyone wants to look at that for
17 a reference. That came out of the needs of the
18 people.

19 The other one that came out of the
20 needs of the people is the Friday night group
21 that I was mentioning, and that's a Friday night,
22 weekly, reentry support group. That is more so
23 for reentry for anyone who has come home more
24 recently and is needing some assistance, tips,
25 help, information, any kind of support to

1 reintegrate into the community. The intent with
2 that group is have it peer to peer.

3 We have a number of people that have
4 convictions in their history, that participate
5 with our office and we're honored to have them
6 and their expertise, and they want to reach back
7 and help people who are more vulnerable coming
8 out, partly so they get on the right track and
9 also partly so they are not taken advantage of by
10 people who are taking advantage of some people
11 coming home, who are in vulnerable situations.
12 That's a whole other subject.

13 Interesting challenges with those,
14 because we're at a point now, 18 months in, where
15 the Summit County Office of Reentry is
16 organized -- I as the coordinator -- am
17 organizing this umbrella organization called the
18 Summit County Reentry Network.

19 That's part of the correlation that
20 Stephen mentioned, ODRC, especially under the
21 guidance of Ed Rhine, R-h-i-n-e. Ed Rhine has
22 been a champion for reentry. He pulled together
23 this local association of reentry coalitions.

24 They would like to have a reentry
25 coalition in every county, all 88 counties in

1 Ohio. The challenge, of course, is funding, and
2 we've had some shut down recently, as of January,
3 no longer able to afford a coordinator position.

4 Without a coordinating position, we
5 lose that hub, that inner spot on the spider's
6 web -- and I think spiders are very creative and
7 do a lot of good -- but we lose that inner hub
8 that's going out in many directions, be it
9 advocacy or marketing or information, and whether
10 that's being given to, for example, our service
11 providers, faith-based organizations, churches,
12 nonprofit organizations, very tiny, one and two,
13 mom and pop shops, or big organizations with
14 multi-million-dollar budgets or government
15 agencies, who, yes they know some reentry is
16 going on but they don't really understand it, and
17 the courts, and that's nothing to say of the
18 people who are actually in need, the consumers
19 that are in need of reentry services and their
20 families. I get a lot of calls from family
21 members.

22 The challenge in coordinating this
23 is -- I want to put this out there because we
24 want to do as much as we can for people who are
25 coming home from incarceration -- but I believe

1 if there is not some semblance of organization in
2 every county or community, per se, people get
3 lost, they don't know who to call.

4 The estimate from ODRC is about half
5 the people coming home, for Summit County, for
6 example, are not on supervision. They don't have
7 to tell ODRC where they're going, they don't have
8 to register, but the research department at ODRC,
9 I've talked to them and they guesstimate that if
10 they came from Summit County, they may be coming
11 home.

12 We're told that anywhere from 1,200
13 to 2,400 people are coming home to Summit County
14 every year, a lot less than what I've been told
15 Cuyahoga County is, which is, I think, around
16 6,000, over 6,000.

17 However, people get lost when they
18 don't know who to call or where to call.

19 The challenge is, as a coordinator,
20 I'm not a case manager, and in coordinating these
21 efforts, we have to get people on board that want
22 to participate in the Summit County Reentry
23 Network.

24 Now, you all probably have heard of
25 the silo effect. Nobody is nodding. This is

1 interactive, okay? Right.

2 Everyone has their own chunk of money
3 and they're doing their own thing. I actually
4 hadn't heard of that term until I came to this
5 position. It's a hard thing to overcome.

6 Our executive, Russ Pry, is very much
7 open, transparent communication. Let's do
8 collaboration, not competition, that's my motto.
9 I emulate that by the nature of who I am in my
10 background, but it doesn't come without growing
11 pains and it doesn't come without some backlash
12 and some vicious competition and some gossiping
13 and undermining of other organizations, because,
14 as we all know, money has been cut, right, so
15 with less money available, some of the
16 organizations to whom I would refer on the front
17 lines maybe aren't as nice as they seem to at the
18 first, right?

19 Like what do you say, it's coming out
20 in the wash, right?

21 As people are penny pinching, do they
22 have the best interest of their returning citizen
23 or do they have money as their interest?

24 We knew that at the beginning, that
25 there would be a concern, and we knew that they

1 all wouldn't play nice in the sandbox, and
2 certainly 18 months into it, some of that is
3 happening.

4 Part of what I do, besides the
5 advocacy and the marketing and the information is
6 some conflict management between agencies, trying
7 to keep clients, consumers out of that, and work
8 hard to get people to collaborate.

9 I say that because if the groups
10 aren't supporting, the service providers aren't
11 referring clients and consumers to these events,
12 then the consumers aren't benefiting by what they
13 could, because these are wonderful, cutting-edge,
14 dynamic events.

15 We have a mishmash of people
16 supporting them, which is very interesting.

17 There are some people who believe
18 that if they cannot involve themselves in the
19 Summit County Reentry Network, then it will go
20 away and there will be more money for them to go
21 play with later on.

22 MR. JONES: Ms.
23 Tribe-Johnson.

24 MS. TRIBE-JOHNSON: You're going to
25 cut me off.

1 MR. JONES: I hate to be
2 interactive.

3 MS. TRIBE-JOHNSON: Please be
4 interactive.

5 MR. JONES: I just want to
6 get Mr. See in on this.

7 MS. TRIBE-JOHNSON: Absolutely.

8 MR. SEE: I'm going to
9 have to ask you to stop right there, and try to
10 bring Mr. See into it.

11 MS. TRIBE-JOHNSON: That's fine.

12 MR. SEE: Thank you so
13 much, Mr. Chairman. It was probably about this
14 time in the afternoon when the phrase was coined
15 "Brevity is the soul of wit," so I will be brief
16 in my remarks.

17 First, before I get started, I want
18 to thank the convenors of this most important
19 discussion. This is certainly an idea whose time
20 has come.

21 I worked very closely with Ms. Frazer
22 and Mr. Obaid Khan, who really worked with me and
23 returned all of my phone calls and encouraged me
24 to get here. Thank you. I want to thank all
25 those folks. I greatly appreciate it.

1 I had the opportunity of reading the
2 brief bios of the panel, a distinguished group of
3 folks. I'm delighted that you're taking time to
4 come to Cleveland and give us an opportunity to
5 appear before you and share some of our thinking,
6 and I appreciate my distinguished panelists that
7 are here with me.

8 As I indicated in my introduction,
9 I'm Charles See, the last name is spelled
10 S as in Sam e-e. I'm the executive director of
11 an organization called the Community Reentry
12 Program, here in Cleveland, Ohio, and I've been
13 in that position for 40 years.

14 So it was back when -- I don't think
15 anyone on the panel is old enough to remember the
16 Attica riots, but we got started as a result of
17 the Attica prison riots. Our own local workhouse
18 was rioting here.

19 Our program is a faith-based program
20 and we asked ourselves what is the position of
21 the church as it relates to criminal justice.

22 And I'm certainly no Biblical scholar
23 but the only person in the scripture ever to
24 pass into paradise was an offender who hung on
25 the cross with Christ, so to the church, it was

1 kind of clear what we ought to be doing.

2 We don't promise paradise over on
3 West 25th Street but what we do do is we say that
4 we're willing to work with people, give those
5 folks a second chance, help them discover their
6 gifts and their talents, and they can put those
7 gifts and talents back in play in the community.

8 So, over probably the last 40 years
9 that's what we've been attempting to do over
10 there.

11 With some 620,000 people returning to
12 communities all across America, the criminal
13 justice system has once again made its presence
14 known to the forefront of the American
15 consciousness.

16 We've discovered we've got people in
17 prison and what are we doing with them? They're
18 coming back to our communities.

19 Some folks see that kind of like as a
20 crisis and folks like myself and others in the
21 room see it also as an opportunity, so a
22 community reentry.

23 Our program is undergirded by the
24 philosophy that people more readily act their way
25 into a new way of thinking than think their way

1 into a new way of acting, so what we've done at
2 Community Reentry is we've given folks in the
3 criminal justice system an opportunity to act in
4 some new ways.

5 Having been around for such a long
6 period of time, I've seen some very meaningful
7 evolutions.

8 The word ex-con, it used to be when
9 we were talking about people in prison, we were
10 talking about ex-cons, then it went to
11 ex-offenders. We in Cleveland, we claim we
12 coined that phrase, "ex-offender."

13 Then we got a little more
14 progressive, we went to formerly incarcerated
15 person, putting the emphasis on the person not
16 the condition.

17 Now, here in Cuyahoga County, once
18 again we coined the phrase, "returning citizens."

19 It is how you think about people and
20 you begin to treat them in the way you think
21 about them.

22 So these are returning citizens with
23 gifts and talents and we want to capture those
24 gifts and talents and help those people get in
25 the community and make the appropriate

1 contributions that they can make.

2 Community Reentry, we provided a bevy
3 of assistance to individuals. We do the
4 traditional kinds of services: We provide
5 housing; treatment; anger management; we do some
6 mentoring; mental health counseling; we refer
7 out; advocacy in courts.

8 So we're doing all of things that we
9 think good service providers ought to be doing,
10 but what we're looking at though, and
11 particularly probably in the last ten years,
12 we're looking for an advocacy.

13 As service providers we think we can
14 get people ready. We can help them with their
15 behavior; we can help them develop their skills,
16 but then they have to go to work; there are
17 places that they should be able to live; they
18 should be eligible for educational opportunities,
19 et cetera, et cetera.

20 But then they continue to face --
21 Stephen talked about it -- then they continue to
22 face monumental collateral sanctions, things that
23 keep them out.

24 So they send them over to Community
25 Reentry. We say you got to behave yourself, you

1 have got to have some skills, you got to pass
2 your GED, and they're able to do that. They say,
3 okay, Chuck, I'm ready to go to work.

4 The national survey said 60 percent
5 of the employers that were interviewed said right
6 off the rip, they would not hire a person
7 convicted of a felony offense. They don't care
8 what it was, who they were. If they've got a
9 felony offense, they're not going to be hired.

10 Stephen talked about ban the box.
11 Here we had the same problem about ban the box,
12 we called it move the box. We moved it from the
13 front of the application to the rear of the
14 application, which we think is very appropriate,
15 Stephen has already articulated.

16 So we're looking at service providers
17 get it; the folks in law enforcement, they get
18 it; the folks who are working in the community,
19 within the population, they get it. It's time
20 that our legislators got it.

21 Give you an example. I mean, I'm
22 over at the county -- this is several years
23 ago -- I'm over at the county, I'm getting a
24 grant. I'm getting a \$300,000 grant to provide
25 services for folks returning to the community

1 after a period of incarceration. They want me to
2 find housing. They want me to find jobs. They
3 want me to find other services, so I'm waiting, I
4 just got the grant.

5 Testifying after me is a housing
6 development project that's seeking funding from
7 the county and part of its stipulation is no one
8 can live in that housing development that was
9 convicted of a felony offense.

10 So when they said does anybody object
11 to this, I mean, we're talking millions of
12 dollars here and I said, I object, I object, you
13 just gave me -- there's something contradictory
14 about what's happening here, you just gave me a
15 grant to go out and find housing, work with
16 people, this individual is asking for money to
17 build housing that excludes the very people that
18 you just funded me to help. Yeah, we got a
19 problem.

20 So the mayor called me and said
21 Charlie, you held up my legislation over there
22 what's going on? That's another story, though.

23 But we finally got the provision into
24 the housing, they could only be excluded for
25 three years, et cetera, et cetera, depending on

1 offenses.

2 But what I'm saying here is,
3 though -- I mean, we got all of this legislation
4 going on that systematically and categorically
5 bars people.

6 I understand and I get that some
7 people should not hold certain jobs. I know and
8 I'm not advocating that pedophiles ought to be
9 running daycare centers and there's a pretty good
10 chance that KeyBank is not going to be hiring a
11 person convicted of embezzlement to keep their
12 books, so we get that, we understand that.

13 But there's no reason why somebody
14 who cashed a bad check 15 years ago can't be an
15 auto dealer, can't work in a salvage yard where
16 old and auto parts are being retrieved or work in
17 the lottery system, so we're trying to bring some
18 sense to it.

19 That's why I am so delighted with
20 what you are doing. You're traveling the country
21 and you're hearing stories and people are saying
22 we got to bring some sense to this criminal
23 justice system of ours.

24 Do we finally get to a point where we
25 forgive people? Is there such a thing as a

1 second chance? And if so, how do we implement
2 that?

3 I work with some state legislators
4 around -- and you'll be hearing from Senator
5 Shirley Smith a little bit later -- what I'm
6 calling and others like me, a sunset law. It is
7 kind of fashioned after the Biblical jubilee, the
8 concept of jubilee: Every so many years, 40
9 years or something, all debts are forgiven,
10 property returns to its original owners,
11 everybody gets a fresh start, we get to start
12 over.

13 Now I know some offenses we wouldn't
14 want to just like say, well, that never happened,
15 we would always need to monitor. I think we need
16 to monitor some folks, keep up with them and make
17 sure they're not posing any danger to us.

18 Come on, 25 years later and we're
19 still excluding folks from educational
20 opportunities, from housing opportunities, from
21 jobs, for something they did when they were 19
22 and now they're 40 years old. We're punishing
23 the man of the boy that was. That makes no sense
24 whatsoever. I think we've got to really begin to
25 bring some commonsense into it.

1 So on a service end of things, we're
2 getting folks ready, we're saying you got to do
3 this, you got to pass your GED, you got to shave,
4 you got to put on a tie and you got to go over
5 and you got to behave yourself, but then there is
6 no place to go over to because folks are saying,
7 no, we're not going to hire those.

8 So I think it's time that this
9 community stepped up and if we say that we
10 believe in rehabilitation -- speaking of
11 rehabilitation, one of the things you heard
12 Stephen talk about, we have been fortunate in
13 that we've had some very progressive directors of
14 corrections.

15 One of the things I'm pleased about
16 with the Ohio Department of Rehabilitation and
17 Correction is that we are one of the few
18 departments of correction in the country that
19 still retain the word rehabilitation in it, so it
20 suggests that we have some other role other than
21 simply punishment and detention, and with the
22 directors of correction that we have, they have
23 been speaking to that, so we've been trying to
24 capitalize on that window of opportunity, you
25 know, what's the rehabilitation part of that,

1 getting the community ready.

2 I think we've got to say particularly
3 to the legislature, because they pass these laws
4 in our name.

5 And when I go out, when I do focus
6 groups, when I talk to church groups, when I go
7 out and I talk to people and we talk about what
8 would you really like your criminal justice
9 system to be, the kinds of things that we see now
10 are not what the people say they want.

11 But continuously legislators will
12 step forth and say the people want this. Well,
13 the people aren't saying they want that, as a
14 matter of fact they're saying they want the
15 opposite.

16 Make no mistake about it, folks.
17 Don't think Charles See is here to talk about
18 coddling criminals, I'm not.

19 I get up in the morning and I read a
20 headline and some heinous things have gone down,
21 I am just as appalled by that as you are. I want
22 to be safe, I want to be protected, I don't want
23 my property taken.

24 But once that happens then I want to
25 treat people fairly, I want to forgive folks, I

1 want to give them a second chance, I want to give
2 them the opportunity I think they deserve. I
3 think that's where the balance begins at.

4 I could go on and talk to you
5 indefinitely.

6 MR. JONES: But I'm not
7 going to give you that opportunity,
8 unfortunately.

9 You all are keeping me busy as chair.
10 Thank you, all three of you, for those very good
11 and important and thorough introductions.

12 I want to turn it over to Margy and
13 let her begin to ask some of the multitude of
14 questions we have got for you.

15 MS. LOVE: Thank you very
16 much. I'm going to start with Mr. See because
17 you said the magic word.

18 MR. JONES: Sure did.

19 MS. LOVE: It's the first
20 time we've heard that word today and I got a poke
21 from my colleague, my leader over here, when you
22 said it, that word was forgiveness.

23 So I'd like to ask you, you've been
24 in this business a long time and you've been in
25 it back when it was a business in the '60s and

1 '70s, as well as -- we seem to have forgotten in
2 there for about 25 years.

3 There was a debate at that time about
4 whether forgiveness or forgetfulness was the best
5 approach to dealing with somebody's criminal
6 record and this task force is supposed to be
7 studying legal mechanisms for restoration of
8 rights and status.

9 So I guess what I would ask you, Ohio
10 has a little bit of both here, they have
11 expungement laws, they have a pardon, sort of a
12 pardon program, they now have new legislation
13 that has got yet another approach.

14 Do you have any views about what is
15 the best way to help people with a criminal
16 record get passed these legal barriers, whether
17 it's a forgiveness or a forgetfulness kind of?

18 MR. SEE: Yes, ma'am. I
19 certainly think it's a forgiveness. I think we
20 have to be -- I certainly think we have to be
21 mindful of who we're dealing with and what some
22 potentials might be, and I think that we can
23 maintain a mindfulness within a context of
24 forgiveness.

25 When people come to me and they're

1 looking for jobs, I say tell me what they said
2 you did, because I want to know what you might be
3 doing or might be capable of doing, but we're
4 going to hire you if you meet all of the other
5 prerequisites, but there is a mindfulness of what
6 has gone in the past, but also within a concept
7 of forgiveness, so we have forgiven you.

8 We're going to give you a second
9 opportunity, but I've got supervisors, and I say
10 what we want to do what's the wisest, so we want
11 to be as aware as we can about who it is we're
12 dealing with, so I won't put you -- if you've got
13 a crime against a senior, that may not be the
14 first job I assign you to, may get to that
15 eventually but that may not be the first one.

16 MS. LOVE: How do you sell
17 that message to the public? I think most of the
18 corrections, the criminal justice establishment,
19 as you all have said, we sort of get it now.

20 MR. SEE: Uh-huh.

21 MS. LOVE: How do you sell
22 that message to the legislature and to the
23 general public and to employers?

24 MR. SEE: I think the
25 general public is probably going to be, I don't

1 want to sound naive, but probably going to be the
2 easiest sale, because I think it's what they
3 want, I think they want forgiveness. They don't
4 want to be harmed but I think if there is an
5 appropriate reason to forgive folks, I think they
6 will and give folks a second chance.

7 I find the legislature, I think
8 that's the toughest sale over the last 40 years
9 that I've had, because some of the things we're
10 saying to the legislature now we said 40 years
11 ago.

12 I think the other part of that sell
13 is we have to have things we can point to to say
14 this is what happens, we've forgiven these folks,
15 given them some opportunities and this is what
16 they've done.

17 For instance, we've got a program
18 called Our Community Reentry Care Team Program.
19 Carefully selected, responsibly trained,
20 well-supervised individuals, formerly
21 incarcerated individuals, work in the Housing
22 Authority providing escort services, banking,
23 shopping, to frail, elderly, senior citizens.

24 I've been doing that program for 25
25 years without an incident. Nobody got ripped

1 off, nobody got assaulted, nobody's money got
2 taken.

3 I'm saying these were folks that ran
4 afoul of the law, we have forgiven them, given
5 them a second chance and put them to work, we had
6 no problem.

7 Evidence-based that's the word. If
8 we can bring forth evidence-based programming,
9 that shows that this is what you can get when you
10 pursue this particular course.

11 MS. LOVE: One more
12 question for you and then I'm going to move.

13 Who are our best allies in selling
14 the message to the legislature, do you know?

15 MR. SEE: My organization
16 is a faith-based organization. We went and
17 pulled all of the mainline denominations'
18 statements on criminal justice. They all say
19 exactly what you would want them to say.

20 So when I'm having some difficulty
21 with a person, I ask who their bishop is and I go
22 get the bishop and say, you know, consistent with
23 what the statement is for this faith, the UCC
24 says this, we've got legislator X at UCC, can you
25 go with me and talk with me about where the faith

1 statement lines up around what we ought to be
2 doing, so I found that to be a good allie for us
3 and found that to have been effective. Put the
4 bishop on them.

5 MS. LOVE: That's a good
6 idea. We haven't seen the churches for the most
7 part as active. We've just had one -- I guess I
8 would be remiss if I didn't mention Chuck Colson
9 who died a couple of years ago, who was a
10 tremendous advocate in this area, but other than
11 justice fellowship or prison fellowship, I guess,
12 I'm not sure that the churches have been
13 institutionally as active.

14 MR. SEE: We pulled the
15 statements. I mean, they say exactly what you
16 want them to say, so we ask them where are we
17 going with this, how is this working for us
18 today?

19 MS. LOVE: Yeah. Okay. I
20 want to ask Ms. Tribe-Johnson, I had a question,
21 I was so interested when you said that as well as
22 with people coming out of prison you were dealing
23 with a lot of people whose cases weren't settled,
24 and I wrote that phrase down, I thought that was
25 sort of an interesting phrase.

1 Could you explain what you mean when
2 say that they aren't settled and how would they
3 be settled?

4 MS. TRIBE-JOHNSON: Settled in
5 that -- you know that Ohio has had a pretty rough
6 economic downturn in the last few years and I've
7 had a number of calls from people.

8 One gentleman, for example, he's in
9 his forties, he was working for a company that
10 went bankrupt, that job ended, he went to apply
11 for another job, and in the ensuing 13 years that
12 he had worked for that company we have the
13 internet that is up and around, and
14 background-check companies that are making a lot
15 of money doing background checks.

16 He actually went back for training
17 and got his welding certificate and he was
18 calling me because he was so affronted that he
19 applied for a position with a local company, in
20 Akron, and the supervisor wanted to hire him --
21 this is but one example, I have a number of
22 these -- the supervisor wanted to hire him. He
23 did his pre-employment physical. He did all of
24 the paperwork. He did all the drug testing. He
25 was told on Friday come in on Monday morning,

1 we'll get you started. He was very excited.

2 That evening the general manager came
3 in and looked at the application for the new
4 starts and said we don't want anyone with a
5 felony working here, his felony had been 20 years
6 earlier. He had other misdemeanors as well, not
7 up for expungement.

8 He said, I have two daughters. I'm
9 married. I'm paying a mortgage on a house. My
10 one daughter is college, my other daughter is
11 finishing high school. That was 20 years ago,
12 how could this be an issue now?

13 So now he's at risk of losing his
14 house because he's not working.

15 MS. LOVE: My question for
16 you is: What's the mechanism? For better or
17 worse we're all lawyers here.

18 MS. TRIBE-JOHNSON: Employment.

19 MS. LOVE: Yes. But how
20 would you settle the conviction? How do you
21 overcome this?

22 MS. TRIBE-JOHNSON: Well, A big part
23 of that would be to educate the public -- I think
24 much earlier -- but also consumers. Reentry does
25 really need to start at the time of sentencing, I

1 think. That's research based.

2 We don't have a court system even in
3 Akron that advocates for people to consider
4 reentry even when they go into incarceration.

5 I had a mom call me and said for two
6 years my son has been incarcerated and we've been
7 talking about his reentry since he went into the
8 institution, because we want him to come out and
9 have hope and possibilities and know what
10 direction he needs to go.

11 So I think part of how it could be
12 settled is to educate people way earlier: What
13 does it mean to get expunged; and, yes, change
14 that legislation absolutely, make it more
15 possible for people to get expungement; what does
16 it mean to seek clemency.

17 I brought a flyer, we're very
18 fortunate at the University of Akron to have both
19 an expungement clinic and clemency clinic.

20 I don't know if any of you have met
21 Joann Sahl, who directs the clemency clinic at
22 the University of Akron, in the School of Law.
23 She is a dynamo advocate. She's just written an
24 article for the law review, actually. And she
25 has talked to Ed Rhine and would like to see

1 clemency clinics across the State of Ohio because
2 she recognizes that many people have more than
3 one, low-level, non-violent, first-time offense
4 that's not a DUI, that would make them eligible
5 for expungement.

6 So getting things settled would be to
7 have an opportunity or even be informed earlier
8 on, what are my options down the road, so that
9 now I could be living my life in the right way,
10 bleeding the letters, getting the background I
11 need.

12 MS. LOVE: Let me follow
13 that one up.

14 MS. TRIBE-JOHNSON: Sure.

15 MS. LOVE: That was the
16 other question I wanted to ask you and then I'll
17 get to Stephen.

18 When you talk about being informed,
19 whose job is it to inform people about what they
20 can do to get their convictions settled?

21 MS. TRIBE-JOHNSON: There is a lot
22 of misinformation out there. That's a very good
23 question.

24 And I do believe that that's part of
25 what a good reentry coalition does, is inform the

1 service providers, this is the information you
2 can put into the hands of the consumers.

3 I would hope that the information
4 would be coming from ODRC ideally, from ODRC or
5 from the government to the counties, to the
6 service providers, to the churches. We don't
7 have a network of good communication like that
8 yet.

9 MS. LOVE: I'm thinking
10 also that probably two-thirds at least of the
11 people who are convicted don't go to prison.

12 MS. TRIBE-JOHNSON: Right.

13 MS. LOVE: So there isn't
14 any institutional way of telling people.

15 MS. TRIBE-JOHNSON: I would like to
16 say it needs to come from their attorneys and
17 that doesn't always happen. I find that
18 attorneys aren't even informing their clients
19 when they take their final plea and take their
20 conviction, they don't even know about the
21 collateral consequences that are part of their
22 felony.

23 MS. LOVE: Oh, dear, yes,
24 you're right.

25 MS. TRIBE-JOHNSON: That happens all

1 the time. That's why the civics information,
2 every Friday. And every Friday night we're
3 giving out a document about the civics database
4 and every Friday night we're giving out documents
5 about the expungement clinic and the clemency
6 clinic, because information is power, and we want
7 to put that information into the hands of the
8 consumers, into neighborhood leaders, into the
9 hands of churches, faith-based organizations,
10 nonprofits, to try to disseminate that
11 information as widely as possible.

12 MS. LOVE: Let me ask a
13 quick question of Stephen, because I want to give
14 my colleagues a chance.

15 Stephen, I would like to ask you if
16 you would just continue, I kind of would like to
17 ask you the same question about how you settle
18 the conviction. It is kind of a nice concept,
19 ending the effect of the conviction.

20 Could you tell us a little bit about
21 what you've included or what has been included in
22 this new legislation?

23 MR. JOHNSONGROVE: Sure. Yes.
24 House Bill 86, I want to be clear, last year,
25 2011, we got sort of a micro version of these

1 Orders of Limited Relief passed in this state and
2 that was in the earlier panel, the phrase
3 certificate of employability or its actually
4 called Certificate of Achievement and
5 Employability, rather grander sounding than Order
6 of Limited Relief but actually identical and more
7 narrow actually.

8 That one was only available to people
9 who were incarcerated in state correctional
10 institutions -- a very small slice of convicted
11 folks -- and had completed -- and had to have
12 been locked up long enough to have completed both
13 vocational programming and some sort of
14 behavioral programming, cognitive behavior
15 therapy or Thinking for a Change, one of these
16 victim-awareness-type groups.

17 You also have to have done community
18 service which actually inmates can do, various
19 volunteer events they can do inside, a whole
20 spread.

21 So if they've done all three of those
22 things and they're about to be released, they can
23 get this certificate, which like the order of
24 limited relief does two major things.

25 Number one, it allows a specific

1 collateral sanction to be lifted -- and I'm going
2 to try to be precise here using Margy and her
3 colleagues' terms -- collateral sanction means
4 the mandatory ones, the discretionary
5 qualifications are of the non-mandatory ones, all
6 told they're collateral consequences. I'll just
7 try to stay true to these terms.

8 The Order of Limited Relief applies
9 to collateral sanctions, and if you name a
10 specific one and you meet all of the eligibility
11 criteria, you can have that one lifted, such
12 that -- but not completely lifted.

13 Let's say it's a licensing agency
14 that previously had a no felony rule. Nobody
15 with any felony record can, in this state, own
16 their own construction business of any kind
17 period, forever, there is a law that says that,
18 but now you can get this Order of Limited Relief
19 or this Certificate of Achievement and
20 Employability, and the licensing agency can give
21 you that license but they don't have to, they
22 have the discretion to do so. That was in both
23 bills.

24 And really what happens in 524 is
25 that now anybody out in the community can get it,

1 too, you don't have to just be in a state
2 institution and have completed institutional
3 programs.

4 MS. LOVE: That's at the
5 time of sentencing?

6 MR. JOHNSONGROVE: Any time
7 thereafter. It can be from sentencing and
8 onward.

9 MS. LOVE: How do you find
10 if courts like this new responsibility?

11 MR. JOHNSONGROVE: Yes, there's a
12 real hitch in this that I really don't like, in
13 the bill that was literally introduced two days
14 ago, to deal with the flood.

15 I want to say a piece of research
16 that our office did is based on a whole bunch of
17 national studies and some local studies
18 determined that 1.9 million Ohioans have a
19 misdemeanor or felony conviction, that's one in
20 six.

21 That's useful for me on the one hand
22 with my advocacy, because I can say this is a
23 huge problem, we're talking about a huge portion
24 of our workforce.

25 But when it comes to these new

1 orders, I've now painted myself into a corner,
2 because the judges look at me cross-eyed and say
3 1.9 million people are going to show up at my
4 doorstep applying for these things, no.

5 So, yes, the Ohio Judicial Conference
6 was quite opposed to that initial proposal.

7 So the compromise in this bill is
8 that all applications will be screened by the
9 parole board or a designee thereof.

10 I am not excited about that. There
11 is no appeal right. There is not even a
12 requirement that the parole board issue any kind
13 of written decision as to why they may have
14 denied.

15 MS. LOVE: Are there
16 criteria?

17 MR. JOHNSONGROVE: They are the
18 same criteria from the UCCA about need and public
19 safety. I don't have them all in front of me but
20 it's the same criteria from the UCCA.

21 So they have those criteria but they
22 don't have to articulate how they weighed those
23 criteria or granted and denied -- not granted so
24 much as we're going forward -- they're really a
25 screening mechanism. They decide whether or not

1 the application will be forwarded onto the
2 sentencing court, and then it goes on to one of
3 the 88 counties.

4 MR. JONES: We're out of
5 time.

6 MS. LOVE: We're out of
7 time?

8 MR. JONES: You can have one
9 more, go ahead.

10 MS. LOVE: Let me ask you,
11 Stephen, what do you think would be the single
12 most effective thing that could be done in this
13 state, to help people get their rights and status
14 restored?

15 MR. JOHNSONGROVE: I'm firmly in
16 the camp of forgiveness as opposed to
17 forgetfulness. I'm a technologically aware
18 person, forgetfulness just can't work, there are
19 too many holes in the dam, we can't plug them
20 all, it just won't work.

21 The order of limited relief is a
22 beginning but the certificate that's in the UCCA
23 which is more robust, I believe we need that.

24 Perhaps there will be creative new
25 solutions that are more robust, but there has to

1 be various rigorous ways of restoration beyond
2 anything we have now and maybe beyond things we
3 imagine, but that's where we have to put our
4 creative energies.

5 I just want to say one last thing
6 about allies, you brought up allies. In my sex
7 offender litigation and all of my other work I've
8 had a remarkable success in getting allies both
9 in the victim's community and in law enforcement.

10 Actually, we had an amicus brief that
11 actually won our case for us from sexual assault
12 victims, when we were challenging residency
13 restrictions, and that's just one of the more
14 controversial of any of the collateral
15 consequences. I say that as an example of allies
16 out there.

17 MR. SEE: One last
18 comment?

19 MR. JONES: Sure. Very
20 quickly.

21 MR. SEE: Yeah. Go back,
22 the sunset law, that after X number of years, ten
23 years, seven years, whatever, that certain
24 offenses were automatically sealed, we'd be done
25 with it, so somebody 20 years later wouldn't be

1 dealing with a check forging that happened when
2 they were 19 years old.

3 Ohio could institute a sunset law
4 that would be automatic expungement after X
5 period of time, for these offenses that got
6 identified.

7 MS. TRIBE-JOHNSON: That's got to
8 mean I get one little moment.

9 MR. JONES: Well, go ahead.

10 MS. TRIBE-JOHNSON: That's to say
11 that the one piece of hope I have is that reentry
12 does seem to be a bipartisan effort, and I do
13 believe that by informing -- information is
14 power -- by informing the public, especially
15 getting the advocacy people who have had some
16 involvement in the criminal justice system --
17 they've have loved ones, neighbors, whoever --
18 have that groundswell of support and people
19 contacting those legislators.

20 There is a huge convergence about
21 reentry in Ohio, at times like no other, and what
22 I heard from director call me Gary Mohr is let me
23 know what people are thinking.

24 It is a time like no other, so I
25 think the groundswell of people can make the

1 difference.

2 MR. JONES: There is never
3 enough time when we do these panels and we always
4 find ourselves running up against the clock, but
5 I do want to thank you both for your service and
6 for the work that you're doing and for taking the
7 time to share your collective wisdom with us. It
8 has been very beneficial, so thank you.

9 MR. SEE: You will be
10 publishing your report?

11 MR. JONES: Absolutely.

12 MR. SEE: Good.

13 MR. JONES: We will be in
14 touch down the road.

15 - - -

16 (Whereupon there was a recess in
17 the proceedings from 3:01 p.m. to
18 3:08 p.m.)

19 - - -

20 MR. JONES: Let's get
21 started. We are pleased to have you here and
22 look forward to an interesting discussion.

23 The way that we operate our panels,
24 and maybe you were here for a couple of them
25 earlier, just so you know -- actually before we

1 even start, we are up against a clock on this
2 one -- not that I want you to minimize what you
3 have to say, because we're certainly interested
4 in that but we will be mindful of that in our
5 questioning.

6 So we're going to ask you to take ten
7 minutes or so to give us a sense of who you are
8 and also to give us the benefit of your thoughts
9 about the wide range of topics we've been
10 discussing, and then we've got questions for you
11 and then Chris Wellborn is going to lead the
12 questioning.

13 I'm going stop talking so we have at
14 much as time as possible and turn the floor over
15 to you.

16 MR. GELFAND: Thank you,
17 Mr. Jones and Members of the Panel. I really am
18 honored and feel privileged to be here.

19 Congressman Kucinich, for whom I
20 work, was invited to this, but as you can
21 imagine, he gets invited to a lot of things and
22 he is not able to make a lot of them, and this
23 one in particular he couldn't make because he's
24 in Washington, it's a session day, and sometimes
25 people who are the inviters will take a

1 representative, sometimes they want the
2 congressman themselves, so I feel very privileged
3 to have been accepted to fill in for the
4 Congressman.

5 Unlike some of the other people who
6 have already spoken, neither the Congressman nor
7 I are specific experts in reentry, although we
8 deal with the issue a lot in our day-to-day work.

9 Just to give you an idea of our
10 day-to-day work -- and I want to make the
11 distinction between the legislative function and
12 the representative function -- you can watch
13 C-SPAN and see the Congressman and other members
14 talking about the various legislation. That's
15 pretty much what they do in Washington, is they
16 deal with legislation.

17 For instance, on point, you know,
18 we've got legislation having to do with the war
19 on drugs. One thing that's really on point is
20 the Second Chance Act funding that is in the
21 queue right now in Washington.

22 And something that's very personal to
23 the congressman is the department of peace.
24 Although in the nearly 16 years that Mr. Kucinich
25 has been in Congress he hasn't been able to get

1 that passed. It's an idea whose time may have
2 not come yet, but it will come and I'll talk a
3 little bit more about that.

4 But here on the ground, talking about
5 the representative function, we all have a First
6 Amendment right to petition our government for a
7 redress of grievance, and that's something that
8 we do in our district offices every day. People
9 come in, they call, they e-mail, they say I have
10 a problem with the government and sometimes it's
11 not even about the government, it could be
12 anything.

13 Oftentimes when I take these calls I
14 say what is the federal function here, but
15 oftentimes it has nothing to do with federal
16 government or very little, but I try to find a
17 way to link it to the federal government and work
18 with people.

19 So, you know, where we talk about the
20 war on drugs and legislation, we're dealing with
21 people who may have used drugs and got caught and
22 are facing prison sentences or are coming out of
23 prison and crowding the prisons, frankly, for
24 having, you know, smoked pot at the wrong place
25 at the wrong time.

1 We have treatment programs on the
2 realm. We have a drug court here in Cleveland.
3 We also have, and this is new and I happen to be
4 on the advisory council for it, the Veterans
5 Treatment Docket in the Cleveland Municipal
6 Court.

7 A lot of veterans are coming out of
8 the wars and service and they're committing
9 misdemeanors and they could be doing time but if,
10 you know, a decision is made that maybe they
11 would benefit better from treatment rather than
12 prison, they might go through that docket, and
13 that's something that we deal with here. It's
14 not necessarily federal legislation, but it's the
15 way -- you know, it's one way that, on the
16 ground, we're dealing with the war on drugs.

17 It's not about sending troops to
18 Columbia, it's about helping a veteran who is
19 finding him or herself with a problem.

20 Second Chance Act, I have a letter
21 that I'm going to let you have for the record,
22 but this is dated March 15th, 2012 and it's in
23 support of the Second Chance Act Programs for the
24 FY 2013 budget.

25 And, you know, the Second Chance Act

1 was passed but it's not always funded and it's
2 always a question.

3 Currently, you know, with the 112th
4 Congress, we're dealing with a Congress that no
5 longer is able to provide earmarks.

6 Now, you know, some people hate
7 earmarks, some people love earmarks. Members of
8 Congress from congressional districts know what
9 the needs of their districts are, so earmarks are
10 not a bad thing, but this Congress doesn't want
11 to deal with earmarks.

12 What they do deal with, the
13 Appropriations Committee and ultimately on the
14 floor, is Dear Colleague letters and this is a
15 Dear Colleague letter, March 15th, signed by 25
16 members of Congress, including Mr. Kucinich,
17 asking the Appropriations Committee, the chairman
18 and the ranking members, to fund programs to deal
19 with, you know, reentry, with the problems that
20 people have upon reentry, after they've been
21 convicted and serve time in prison.

22 Now, the counterpart on the ground,
23 this is a letter -- and I'll also provide this
24 for the record -- this is a letter that
25 Mr. Kucinich sent to the Department of Justice,

1 Office of Justice Programs, in support of a
2 reentry grant.

3 I think Mr. See talked a little bit
4 about the reentry grant he received, this would
5 be a continuation of it.

6 But here on the ground we see the
7 value of helping people when they're coming out
8 of prison to reorient themselves and to be able
9 to get a job, be able to get housing.

10 We get a lot of calls from people and
11 they don't know what to do.

12 I call Mr. See. You know, frankly
13 that's, you know, what I've -- in my 30 years
14 working for the Congressman, I call him and our
15 constituents get the service they need, the
16 direction they need.

17 There are a lot of programs that I
18 know he depends on, you know, after I call him.
19 So we work together on finding the resources,
20 finding, you know, what we need to help the
21 veteran.

22 You know, they may be talking on the
23 floor of the house and dealing in an
24 Appropriations Committee with a Second Chance
25 Act. What we're dealing with is that man or

1 woman who is coming out of prison, who can't get
2 a job and can't get a place to live, so we work
3 very closely with Mr. See, the county. The
4 county gets that money.

5 We make sure that we let the
6 appropriators know that here on the ground, in
7 Cleveland and Cuyahoga County, we need that money
8 because people need that second chance.

9 I also want to talk about the
10 department of peace. Again, that's something you
11 could watch a discussion about on C-SPAN. So far
12 it hasn't really gotten to the point where it is
13 going to be enacted, but Congressman Kucinich has
14 a vision, we need to be thinking less about war
15 and more about peace, and it's not just the
16 international. The whole idea, it's not just
17 international peace, it's international and
18 domestic, and probably there are more points in
19 the department of peace legislation about
20 domestic peace than international.

21 And some of those issues are:
22 Develop policies and address domestic violence,
23 including spousal abuse, child abuse and
24 mistreatment of the elderly; creating new
25 policies and programs and expand existing

1 policies and programs that effectively reduce
2 drug and alcohol abuse; development new policies
3 and programs and expand existing policies and
4 programs that effectively address crime,
5 punishment and rehabilitation, including working
6 to reduce prison recidivism rates, supporting the
7 implementation of non-violent conflict resolution
8 education and training for victims, perpetrators,
9 and those who work with them.

10 This isn't about reentry, this is
11 about helping communities stem the flow of entry
12 into the prisons, because I think, you know, a
13 big part of the problem is we're getting so many
14 people in the prisons and there's so much money
15 to be made from housing people in prison,
16 communities are fighting.

17 We have an example of two communities
18 in Texas that are fighting over a prison, they
19 want that prison because of all of the jobs and
20 money that come from the resource economy of a
21 prison. We see that all the time.

22 Did I use the term prison industrial
23 complex? It's a term that you hear a lot but it
24 comes from industrial military, military
25 industrial complexes, that goes back to the

1 Eisenhower administration.

2 We see it every ten years when the
3 BRAT Commission meets and when communities are up
4 in arms that their military base is going to be
5 closed.

6 You see the same thing, they want
7 prisons because there are so many people going
8 into prisons, it's a big part of their economy.
9 There is something we can do.

10 Drug dependency, people that are
11 using drugs, that doesn't necessarily have to be
12 something that people go to prison for.

13 When we're talking about the war on
14 drugs, we need to talk about treatment rather
15 than prison, talk about getting people in
16 programs where they can be helped rather than
17 treat them as criminals for, you know, in many
18 cases, self-medicating for problems they have,
19 maybe mental health problems.

20 So with the department of peace and
21 the domestic programs what you see in a lot of
22 neighborhoods is conflict, you have neighbors
23 versus neighbors: Someone plays their music too
24 loud, another neighbor doesn't like it; someone
25 keeps their garbage cans out too long, somebody

1 doesn't like it; someone let's their weeds grow
2 too long, people don't like it, and sometimes
3 that escalates.

4 Want can we do in neighborhoods to
5 stop people from fighting with each other? You
6 have younger people, you have bullying, you have
7 racism, sexism, other kinds of isms, where people
8 are not being nice to one another, to put it
9 mildly.

10 Are there ways that we can work in
11 communities to reduce those tensions, to reduce
12 the threat of violence, and are there programs
13 where there's early intervention?

14 Here in Cleveland now there's a new
15 book out by a local graphic novelist about he
16 went to school with Jeffrey Dahmer, and there
17 were things that they all noticed about Jeffrey
18 Dahmer when he was a high school kid but people
19 didn't notice it. Are there ways that we can
20 intervene early to stop people from getting into
21 a situation where they're going to be imprisoned?

22 So those are things that we're
23 looking at.

24 I want to give one more example: As
25 someone who works in the district office of a

1 congressman's office, we get a lot of people
2 coming in and asking for help.

3 One of the -- I'll call her
4 Mrs. E. -- she called me a few weeks ago and her
5 son was convicted 23 years ago of some kind of
6 sexual crime, it had to do with his two
7 stepdaughters, and it's not clear exactly what he
8 did. He never admitted to doing it, whatever it
9 was he was excused of.

10 Now that translates in the Texas
11 system, if you're in denial, you're one of the
12 worst offenders. Now some people are in denial
13 because they're in denial, some people are in
14 denial because they didn't do it. They deny it
15 because they didn't do it.

16 I don't know and I don't always ask
17 for a detailed set of facts when I'm trying to
18 help someone and we don't get involved in the
19 prison system much because that's part of the
20 court system and is a legislative office. We get
21 involved in the larger policy issues. We get
22 involved in the person-to-person level and trying
23 to help people get what, if any, help they're
24 eligible for, but we can't really get involved in
25 intervening in a court case.

1 But what I've learned in looking into
2 this case, her son is considered one of the worst
3 offenders in Texas, sexual offenders in Texas,
4 because he denies that he did it.

5 They have a program there, you
6 probably heard of it, it's in a number of states,
7 called civil commitment.

8 Let's say some states have better
9 civil commitment than other states. Some states,
10 it's really about getting people to rehabilitate
11 themselves so they can function in society upon
12 reentry, and in some states and the information
13 I'm gathering about the Texas program, is that
14 it's about keeping people in prison for the rest
15 of their lives, and that seems to be what I'm
16 learning in helping Mrs. E learn more about what
17 her son is going through.

18 They have all of these contracts and
19 you violate one term of the contract and it sets
20 you back a whole number of years. And you're
21 supposed to be getting so much therapy, but they
22 will only fund a couple hours of therapy a week.
23 So if you are someone who really needs the
24 therapeutic aspect of the program, you're not
25 getting it. You're really being put upfront as

1 someone who has the same problems, they have the
2 problem as well, but they're supposed to be
3 treated for it and they're not getting help.

4 So it might be a 25-year term or
5 30-year term, whatever the term is, it
6 effectively turns into a life sentence.

7 That's some of the things, I guess an
8 example, of the kind of stories that we hear in
9 our office from constituents in our district.

10 I don't know if that was ten minutes.

11 MR. JONES: Well, thank you
12 for that. I hope somebody answers that phone
13 because between you and your office of peace and
14 Mr. See and the forgiveness, and the faith-based
15 organizations, I think we may have tapped into a
16 higher power. I hope somebody picks up that
17 phone.

18 I am going to turn the questioning
19 over to Chris.

20 MR. WELLBORN: Thank you very
21 much. I really do appreciate you coming. I know
22 you have got a lot going on.

23 We've heard a lot today, also sort of
24 in anticipation of coming today, about things
25 happening on a state level as far as state laws

1 in Ohio specifically, but I would like sort of
2 for you to focus on some federal steps because
3 that's more your milieu.

4 There seem to be a ton of collateral
5 consequences that flow from federal convictions
6 that face federal ex-offenders coming out and
7 reentering society, everything from people who
8 are charged with internet porn cases down to
9 somebody who's charged with -- well, could be
10 charged with a state criminal domestic violence
11 charge and wind up with the 922(g) consequences,
12 felony in possession of a firearm conclusions,
13 which, of course, if they're a military officer
14 or police officer or they need a security
15 clearance, there goes their career, there goes
16 their family's livelihood, and these might very
17 well be patriotic military Americans.

18 I'm sure your office has probably
19 dealt with some of these folks or at least had
20 those concerns expressed.

21 My question for you is because we've
22 heard a very, very important term that was raised
23 in the last panel at some length, that is the
24 term of forgiveness and the concept of
25 forgiveness, and I think it was most eloquently

1 put by Mr. See and sunset laws.

2 Is there any movement afoot on a
3 federal level to take a serious look, not just at
4 the over-criminalization of federal law and not
5 just at the fact that the Congress seems to take
6 a lot of what we used to consider garden variety
7 state street crime and federalize it, but also
8 the concept of what is happening long-term to
9 otherwise tax paying, law abiding, contributing
10 Americans, not only in your constituent base but
11 nationwide, to try and address that to such as
12 perhaps have some sort of sunset provisions
13 written into the federal detention laws or
14 perhaps to even address the collateral
15 consequences aspects, because some of them quite
16 frankly, from the standpoint of an
17 in-the-trenches, practicing criminal defense
18 lawyer are absolutely insane and many prosecutors
19 and most judges think they're insane.

20 That's my question for you, beyond
21 the colleague letters, is there any sort of
22 discussion going on in Congress between perhaps
23 Congressman Kucinich and other representatives
24 and Senators about this particular problem?

25 MR. GELFAND: Well, again,

1 most of what I'm informed by is what is happening
2 in the streets in the 10th Congressional District
3 and the surrounding areas than the discussions
4 that the Congressman might be having in the
5 cloakroom or on the floor of the House.

6 What I can tell you, what I've
7 observed, is that since 9/11 most of the criminal
8 legislation that I've been aware of has been
9 strengthening the charges, making it easier to
10 convict people, making more federal crimes where
11 it previously had been limited to state crimes
12 and not the other way around.

13 Now, one of the things that --
14 actually here in Ohio -- and I know it's
15 different in the different states -- but in Ohio
16 one of the things that you get when you reenter
17 society from prisons is the right to vote, and
18 not everybody knows that and not every state does
19 that.

20 But as someone who has been political
21 in my spare time and have gone out and done voter
22 registration and canvassing door to door, I can't
23 tell you how many people I've run into who say
24 oh, I would like to vote for your candidate, but
25 I can't vote.

1 Oh, really, why not?

2 Because I'm a felon.

3 Oh, are you in prison? Guess what,
4 you can vote, here's a registration.

5 People don't know that. I think
6 people need to know that, because, you know, part
7 of the whole -- I think what the members talk
8 about on the floor and in the cloakrooms are, you
9 know, reflective of what they're hearing from
10 their constituents and people who take the time
11 and have the motivation to vote.

12 If there's a whole community of
13 people and a segment of the population that isn't
14 voting, either because they can't vote or don't
15 know they're allowed to, that's information that
16 members aren't necessarily getting. So, you
17 know, for the pendulum to swing the other way
18 more people need to vote.

19 MR. WELLBORN: I think we get
20 the fact that since 9/11 there has been a lot of
21 federal sort of interest in quote "criminal
22 justice."

23 Obviously vice is involved with
24 internet porn case, Homeland Security is involved
25 with counterfeit T-shirt cases in my particular

1 jurisdiction. It is sort of absurd.

2 But beyond that still the question
3 remains, can something be done on a federal level
4 to deal with these ridiculous collateral
5 consequences that affect people on a federal
6 level, which is, of course, what Congressman
7 Kucinich is involved in, so that we have some
8 perhaps forgiveness on the federal side as well
9 as forgiveness on the state side and how can we
10 do that?

11 MR. GELFAND: I appreciate
12 your question and I can't give you a direct
13 answer to it because I don't know specifically.
14 That wasn't something that I looked up before I
15 came here, but I think that, you know -- I think
16 that that's an excellent question, something that
17 I would be happy to look at and, you know, get
18 back to the panel if you would like.

19 MR. WELLBORN: Thank you.

20 MR. GELFAND: There is
21 something out there that deals with that.

22 MR. JONES: Anybody have any
23 questions?

24 Geneva?

25 MS. VANDERHORST: You talked about

1 that you often contact or coordinate with
2 Mr. Charles See, who was on our last panel. Did
3 you have a chance to hear his thoughts about a
4 sunset provision?

5 MR. GELFAND: Yeah, I was
6 sitting right there.

7 MS. VANDERHORST: Is there
8 anything that you're aware of, that would block
9 such a provision as to automatically having
10 certain offenses go into a sealing or
11 expungement, after a certain number of years?

12 MR. GELFAND: Well, I think
13 when you're dealing with legislation you have
14 legislators, whether it's state or federal,
15 listening to everybody that has an interest, who
16 wants to express that interest, you're going to
17 get people who are giving you reasons why there
18 should be a sunset provision and you're going to
19 have people who are telling you why there
20 shouldn't.

21 I think Mr. See expressed it very
22 well when he talked about the reasonableness of
23 what is being done.

24 Obviously you don't want someone who
25 is convicted of child molestation to be working

1 in a daycare center, but there are lots of jobs
2 that people can do, depending on what they're
3 crime is, and that's what we have to be able --
4 if we're dealing with sunset or forgiveness or
5 whatever you want to call it, there has to be
6 some kind of rational basis for either the
7 forgiveness or non-forgiveness of a certain
8 offense.

9 Legislators are going to hear both
10 sides or all sides, because there are probably
11 more than two, as to why this crime should not be
12 forgiven or forgotten or that crime should have a
13 sunset, a lot of circumstances, and they do get
14 into a lot of details in considering the latest
15 law.

16 MS. VANDERHORST: Some of the
17 things that you refer to, that your office is
18 looking at, like certain minor drug offenses,
19 that seems to be appropriate for a certain kind
20 of sunset provision.

21 Is there anything that is barring
22 having something like that set up for just
23 misdemeanors, for instance?

24 MR. GELFAND: You know, one of
25 the things that -- you have to be careful here

1 because I wear a couple of hats.

2 I'm a city councilman in one of the
3 Cleveland suburbs, in South Euclid, and they tell
4 me at the House of Representatives that I should
5 come either representing the House or
6 representing myself as a councilman, but let me
7 share something with you that in my experience as
8 a councilman I've dealt with.

9 We just solidified our nuisance law
10 and what that means is that, you know, if you get
11 the police called on you a bunch of times, you're
12 going to have to pay much stiffer penalties.

13 I think part of the problems, one of
14 things that the Congressman deals with in his
15 department of peace, why are the people calling
16 the police on other people. Sometimes it's for
17 good reason and sometimes it's harassment and
18 people not liking each other.

19 So what I think we're doing in
20 municipalities is we're trying to find -- because
21 people are upset with other people -- we're
22 trying to find ways to stem the tide of crime and
23 to hold back the floodgates of crime and, you
24 know, people's neighborhoods aren't the same as
25 they were, you know, 20 years ago and they want

1 to deal with the issues of crime.

2 And this isn't just the federal
3 level, this is at the local level, tapping all
4 over, more people are becoming eligible to be
5 convicted of crimes that may well be merely a
6 nuisance, but nuisances escalate and become more
7 than nuisances, and I think you're going to get a
8 lot of resistance to wanting to coddle criminals,
9 as it were. I mean, that's where you are going
10 to get resistance.

11 When I talked about legislators
12 hearing both or all sides of an issue, you're
13 going to get people saying what about all of the
14 collateral consequences of someone convicted and
15 then you're going to get people saying, well,
16 what about these wrongdoers that are causing my
17 neighborhood to deteriorate.

18 And I think there is a balancing act
19 we see all the time between how do we keep peace
20 in the neighborhood and how do we bring people
21 back into the neighborhood when they've served
22 their time.

23 I mean, I have to tell you this is a
24 very timely issue and I'm glad that you're doing
25 this fact-finding because it really is -- there

1 really is a conflict in our society, these issues
2 are coming up.

3 MR. JONES: We really are
4 out of time. I just want to get one last very
5 short comment from you.

6 This is our third stop on our
7 journey, we've been in Cook County, Illinois and
8 we've been in southern Florida and we've heard
9 from elected officials in all of those places.

10 We've also heard from other folks,
11 colleagues of the Congressmen in the House and
12 we've heard from representatives from the
13 executive, the governor's office in Illinois, and
14 in talking about this issue of what as a society
15 we ought be doing, the direction we ought be
16 taking as a society with respect to thinking
17 about how to treat folks who are coming back into
18 society after having potentially made a mistake
19 earlier in life, whether we should be
20 implementing policies that support forgetting and
21 acting as though -- expunging -- and acting as
22 though it didn't happen or being a more generous
23 sort of society and forgiving, understanding that
24 you made this mistake but as a society forgiving
25 and embracing.

1 What we've heard from elected
2 officials in many cases is this notion that --
3 and it sort of may be in line with the idea of
4 tough on crime and not coddling criminals, and
5 this sort of feeling that elected officials have
6 to sort of show they're tough on crime, although
7 now I hear people saying smart on crime, is this
8 notion of you can't mandate society to forgive
9 but you can mandate forgetting.

10 So I'm just wondering, as an elected
11 official yourself we find out, but also as a
12 representative of the Congressman, where you come
13 down on that notion of forgetting versus
14 forgiving as a policy going forward?

15 MR. GELFAND: The forgetting
16 is really not -- you know, my boss is a
17 legislator and local I'm a legislator, and
18 legislators don't have the power to forget.
19 Legislators don't have expungement power, they
20 don't have pardon power, governors and presidents
21 do.

22 And, you know, at one point I tried
23 to help someone get a pardon, you know, just kind
24 of guided him in what he needed to do to get it
25 through the governor's office, and what I found

1 out was that the governor in Ohio -- I don't have
2 all of the details -- the governor in Ohio
3 doesn't have a lot of -- there are certain
4 criteria that he or she, as the case may be, had
5 to get from a pardoning commission. He can't
6 just say, okay, you're pardoned without himself
7 looking at all of the facts and having the
8 pardoning commission look at all of the facts.

9 Presidents I think have more latitude
10 but, you know, people have tried to get
11 presidential pardons and I don't know how -- I
12 mean, sometimes they can be political, presidents
13 usually it is near the end of their term and they
14 pardon a whole lot of people before they leave
15 office, so the forgetting part is really an
16 executive function and is a privilege of the
17 office.

18 Forgiving I think is something more
19 that the legislature can do, and find ways to
20 mitigate the collateral consequences of
21 imprisonment and conviction.

22 MR. JONES: Thank you. We
23 are out of time and we appreciate you being here
24 and please give our regards to the Congressman
25 the next time you see him. Thank you very much.

1 We're going to take a ten-minute
2 break and reconvene.

3 - - -

4 (Whereupon there was a recess in
5 the proceedings from 3:40 p.m. to
6 3:51 p.m.)

7 - - -

8 MR. JONES: This is our last
9 panel of the day and before we start, just a
10 couple of housekeeping things and
11 acknowledgments.

12 We are joined here for this final
13 panel by the full compliment of our task force.
14 We've got Vicky Young, who is my co-chair from
15 San Francisco, sitting over there eating her
16 lunch.

17 They've been out at site visits, in
18 the field, working hard, and so she is taking
19 this opportunity to eat.

20 And Larry Goldman, at the end of the
21 table, from New York, as well as Jenny Roberts,
22 our reporter, from Washington, D.C.

23 I also should just acknowledge
24 Elizabeth Kelley, who is in the back, who we
25 mentioned this morning, but now she's here.

1 Let's recognize her as a board member from NACDL
2 and she was very instrumental in helping us put
3 this whole wonderful two days together.

4 And then finally, Jerry Cox, who's in
5 the back, who is our first vice president, and at
6 the end of the summer will become president elect
7 and has been with us all day. We appreciate him
8 being with us as well. Thanks to all of those
9 folks in the room.

10 Before we begin, we've got four of
11 you, I've been asked to let you know that you're
12 both being videotaped as well as there's a
13 stenographic transcript of these hearings being
14 made, and so both for the videotape as well as
15 for the court reporter, I'm going to ask that
16 when you're speaking, you speak into the
17 microphones that you've got in front of you and
18 also that you try to speak as slowly as you can,
19 because she's getting down everything that you're
20 saying.

21 Having said all of that, welcome.
22 It's a pleasure to have you here and we look
23 forward to engaging in a discussion with you.

24 As you guys have probably seen now,
25 because this is our last panel of the day, the

1 way we operate is we designate one of our number
2 to be the primary person responsible for doing
3 the questioning of each panel and for this panel
4 that will be Geneva Vanderhorst.

5 I'm going to now stop talking and
6 turn the floor over to you and leave it to you
7 all to decide who goes first.

8 We're going to ask each of you to
9 give us five or ten minutes by way of opening
10 statement, let us know who you are and what
11 brings you to this table, and give us the benefit
12 of your thoughts and then we've got lots and lots
13 of questions for you.

14 I'll stop talking and turn it over to
15 whoever wants to go first.

16 MS. JACKSON: My name is
17 Tamara Jackson. I'm currently the reentry
18 coordinator for Wayne-Holmes counties, Ohio.
19 I've been there since 2010, in that position.
20 I've been in the social services/criminal justice
21 field for about 17 years.

22 MR. JONES: I can almost bet
23 you that the court reporter is going to ask you
24 to slow down just a little bit.

25 MS. JACKSON: I understand.

1 I've been in the social
2 services/criminal justice field for approximately
3 17 years. I started in this career field after
4 graduating with a degree in criminal justice,
5 very green, and went to work for one of only two
6 at the time sex offender facilities that treated
7 sex offenders, in Mansfield, Ohio, the Volunteers
8 of America.

9 I soon became very aware of many of
10 the issues surrounding reentry, as I started my
11 employment there in 1997, with the inception of
12 Megan's Law and the registry itself.

13 We went literally from having
14 employers, about 14 that we were able to work
15 with, quickly down to only three employers who
16 were willing to still employ these individuals
17 because of the fact that those offenders, you
18 know, have to list their employer's addresses.

19 In working there -- I want to say
20 something that is -- there has been so many
21 wonderful things said today, so I'm kind of
22 scattered in thinking about all of these things
23 over and over in my head.

24 I perform SONAR assessments, which is
25 the Sex Offenders Needs and Risk Assessment,

1 while working there.

2 Many of the offenders that were
3 coming out of prison had not yet been classified
4 and we were still under a risk-assessed-based
5 system at that time, and I could never understand
6 and still don't to this day why we, as paid
7 professionals, were determining risk levels, and
8 yet when these individuals went back to their
9 sentencing county to be classified, no
10 recommendations from us were even virtually in
11 the courtroom, and that seemed to be a continual
12 issue.

13 As the Adam Walsh Act then came about
14 and we became an offense-based state, we still
15 have the same issues.

16 And I would say, my opinion on the
17 sex offender registry is that it's not cost
18 effective. And although it has been a great way
19 for many of our state legislators to, I think,
20 give the public a false sense of security, it has
21 done virtually nothing to really prevent sexual
22 abuse. Legislation does not prevent sexual
23 abuse, not that type of legislation.

24 Currently we have -- I work in the
25 most rural part of Ohio actually -- not the most

1 but one of the more rural parts of Ohio, Amish
2 population, too -- which makes us a little
3 unique.

4 We don't have a high number of
5 offenders but we're under a planning grant
6 currently and it's all part of the reentry
7 coalition initiative that the state and DRC has
8 been doing and that's what I work under.

9 I'm under a planning grant, so I have
10 a lot more administrative duties than hands-on
11 duties with making referrals, but trying to just
12 change the social service agencies' viewpoints
13 into having them understand how important
14 tracking is has been very difficult.

15 This is a very under -- although we
16 know this is not an under-serviced population,
17 they're a very unaccounted for population,
18 because we don't have jobs and family services,
19 metro housing, all of these, you know, mental
20 health and recovery boards across Ohio.

21 We don't have those people
22 necessarily taking the numbers down to understand
23 how truly, you know, how many people are actually
24 demanding services and/or in need of services and
25 draining our system of these services when many

1 of them could be able to work.

2 Out of 60 phone calls I received just
3 this year, in the last four months, 58 are
4 offenders and members who are trying to obtain
5 employment. Employment is just a huge issue and
6 continues to be.

7 It doesn't matter whether these
8 former offenders were convicted three months ago
9 or 30 years ago, it seems to be an ongoing
10 situation, it's the same thing.

11 I would like to say, you know, I
12 think it was an onslaught of, you know, the '90s,
13 we hired typically, especially one of our
14 manufacturing companies and temporary agencies.

15 I think with the combination of that
16 being said and also the sex offender registry, it
17 gave more sigma to offenders in general, because
18 most of the temp agencies went to saying, hey, we
19 need to stay competitive, we're definitely not
20 going to hire somebody with an arrest record,
21 because that only answers that we, you know, are
22 going to be a better, you know, a more
23 feasible -- sending you more feasible people to
24 be employed.

25 And I feel that that's -- the sex

1 offender registry, it's beyond the sex offender,
2 it's about offenders now because every time we
3 hear that word over and over, it's the stigma
4 association along with all of that.

5 I left the criminal justice field for
6 a while and I actually was here in Cleveland for
7 about five and a half years and I worked for a
8 for-profit company and I worked for the
9 Department of Job and Family Services, here in
10 Cuyahoga County.

11 When I went back to -- I went back to
12 then the educational field for a short while. I
13 was trying to assist individuals who were
14 receiving public assistance and trying to help
15 them obtain employment. And I worked for the
16 Adult Basic Literacy and Education Program or
17 ABLE, for those seeking their GED to be able to
18 do that.

19 I was flabbergasted by the fact that
20 we could no longer ignore juvenile records. All
21 of a sudden we had gals in their early twenties
22 who wanted to become an STNA, not really a great
23 paying job, but it gets their foot in the door in
24 the medical world, and they could not do that if
25 they had certain offenses on their juvenile

1 record. It could be anything. Maybe they wanted
2 to go into daycare.

3 Many of the educational institutions,
4 there's kind of a two-fold system here, some of
5 them will not accept certain types of offenders
6 to be in their programs, even though there may be
7 an adult institution, that seems to be an issue,
8 and then there are some higher learning
9 institutions who, because they need the numbers
10 to fill classrooms, they are bringing them in and
11 then these people are getting financial aid,
12 owing loans possibly, and then they can't pursue
13 that career field. That's a huge problem from an
14 educational standpoint, that I saw working in
15 that field, when it came to ex-offenders.

16 I just don't understand why there are
17 not any checks and balance systems in place,
18 especially when it comes to the background
19 investigations.

20 It's understood now that -- I think
21 our technology has superceded not only the
22 registry but all of these BCI records being out
23 there, and now with all of the online
24 institutions that are out there, they are causing
25 a lot of people to have misinterpreted records.

1 If an employer, human resources
2 staff, is not educated on how to read those or
3 just taking those verbatim as they get them
4 through, this is causing a lot of harm to a lot
5 of people who have arrests sometimes and not even
6 a real conviction.

7 I've even heard stories where the sex
8 offender has to register every 90 days as a Tier
9 Level 3. This is showing up as an arrest record
10 each and every time. That's a huge issue.

11 MR. JONES: Ms. Jackson, I'm
12 going to have to stop you there, but we'll get
13 back to you, I promise.

14 MS. JACKSON: That's fine.

15 MR. GUNNELL: Good afternoon
16 everybody, I'm here to testify to the barriers
17 and the collateral consequences that a person who
18 has a felony on their record has to go through.

19 And how I got here today is really a
20 story and a journey in and of itself but be that
21 as it may, here I am.

22 I committed a felony 29 years ago. I
23 was convicted November, 1983, receiving stolen
24 property, forgery and theft, that was my crime,
25 and that has haunted me since the day that it

1 happened.

2 I realize -- I didn't know what I was
3 doing at the time -- I realize now that it was
4 the single biggest mistake I have made in my life
5 and I now try to mentor younger people and even
6 people who may not have this awareness as to what
7 kind of problems they'll face, how they have to
8 become more aware, how they have to educate
9 themselves, how they have to work hard in order
10 to survive in this society which does not forgive
11 people for criminal records.

12 I've always kind of been involved in
13 social issue, anyone who read my bio, you will
14 see some of that and I won't repeat that
15 information, but that doesn't tell the whole
16 story.

17 You go through hundreds sometimes
18 rejections. I used to keep them all at one point
19 in time but there were so many, it was taking
20 over my little space in the house, hundreds of
21 them.

22 People look at you in a different
23 manner. There is a stigma that goes along with
24 this and it does lead to, you know, a person
25 maybe having feelings of inferiority or not being

1 equal and certainly it puts them in a position a
2 lot of times where they cannot live to the full
3 potential of their lives, especially -- and I
4 want to focus on this -- well, just to go back a
5 little bit.

6 I managed to keep a job after a year
7 or so out of incarceration, but I got the job by
8 telling a lie on the application. After going
9 through tens, twenties of applications and always
10 getting rejected, I didn't have a choice, it was
11 either that or go back to prison.

12 I was fortunate that I had strong
13 family behind me, which is a reason why I never
14 got re-incarcerated, but believe me the thoughts
15 were there. Society is really unforgiving on
16 that.

17 I built myself, I built a business, a
18 real estate business, even got a broker's license
19 from the State of Ohio with, of course, the
20 additional inquiry that goes along with a person
21 who has a felony on their record, but I did get
22 it.

23 So I worked on real estate. I did
24 rehab and sales. I tried to hire people and did
25 what I could. I was pretty successful at it.

1 I was so successful that the City of
2 Columbus got word of what I was doing and hired
3 me as a housing development program manager.

4 It was a good job because it was what
5 I wanted to do, help rebuilt communities, help
6 nonprofits in what they did as far as housing
7 people, and I got to deal with a lot of the other
8 issues that people who have low income and low
9 skills or maybe have other issues, as far as
10 criminal records and things of that nature, have
11 a better life.

12 I got laid off from that job in 2009,
13 cuts hit, as they did in 2008. It was a
14 political atmosphere. I won't say it was a
15 political decision to get rid of me but I think
16 it was.

17 Since that time I've been looking for
18 a job. It took me actually two years just about,
19 actually, I will say almost a year and a half, to
20 find employment, and when I did find employment,
21 it was in a halfway house, which is where I
22 currently work.

23 That's good because that helps with
24 my passions as far as, you know, talking with
25 people and trying to help them with their

1 passions in life and what they want to do after
2 their release.

3 But I would like to focus on is the
4 collateral consequences, and I heard some
5 conversation on the last panel concerning the
6 federal consequences of having a record, well
7 it's now state also.

8 I was involved with FEMA for a time
9 at my job at the City of Columbus, decided that
10 this was a job or an organization that I wanted
11 to try to work for, so I started looking into
12 FEMA and seeing what it is I could do, made
13 several applications, and they were quite
14 interested in my abilities. I actually got an
15 offer from FEMA in 2008 for a position in their
16 disaster relief.

17 I went through all of the paperwork
18 and the regulations and things that they require
19 and they actually extended an offer to me.

20 So I passed an FBI check and all of
21 the background checks, and I thought I would, my
22 record was 20-some years old, I just somehow
23 thought it might have been lost in the closet,
24 which was wrong.

25 But things turned out where I could

1 not accept that position because of family
2 situations, pressures and things that came out
3 after the offer was made, but I stayed interested
4 in it and decided that maybe I could do this
5 disaster inspection or the other kinds of housing
6 things from a different angle, which led me to an
7 organization called Dewberry, which is FEMA's
8 largest contractor for disaster inspection.

9 I had a real good, I guess, talk with
10 them. They actually flew me to Washington, got
11 involved, wanted to put me on their payroll and
12 this was probably in 2010.

13 After they went through the FBI check
14 and did all of things, they told me that I was
15 not suitable for employment as a contractor for
16 FEMA and I couldn't understand why, after going
17 through all of this.

18 Well, it turns out that now, since
19 9/11, the Department of Homeland Security has
20 become involved in any arrest that goes on in the
21 nation, it does not matter what it is, any
22 arrests. Some are sent to -- to my
23 understanding, I don't know the depth or the
24 scope of how it all works -- but I do know that
25 my record went to the FBI, and I had no idea that

1 my record was at the FBI.

2 So I now have a federal record, which
3 excludes me from a lot of employment
4 opportunities or even contracting opportunities.

5 That was a big blow. You know, I had
6 to suck it up and deal with it, but the
7 collateral consequences that happen with the
8 person because they have a record, it never
9 leaves them, it never leaves them, and I am glad
10 to see the lawyers and attorneys are now getting
11 involved because that means something is going to
12 get done.

13 What work you folks do is
14 appreciated, believe me, by a person such as
15 myself, you would not know how tremendously it
16 is.

17 There are a number of people that I
18 deal with daily who have criminal records and
19 they're felons, and we talk daily about certain
20 things, about what they can do, how did I get
21 through it, what are you doing and how can I do
22 this, and if I can tell them that there are
23 people that actually hear what they are going
24 through, it will mean a lot and it will probably
25 give them a lot of hope in order to move forward.

1 I don't want to take up all of the
2 time. I know the other panelists have something
3 to say. I'll quit right there.

4 MR. JONES: Thank you very
5 much.

6 Mr. Torres?

7 MR. TORRES: Good afternoon.
8 My name is Jose Torres. I am a medical and
9 judicial terminology Spanish language
10 interpreter.

11 I have a summary of my story here so
12 I don't forget important things. It's titled,
13 "Changing Lives and Changing Community."

14 Four years ago if someone had said to
15 me your life can change and you can help change
16 your community, I would have laughed and denied
17 it, that is because I had fallen to the lowest
18 point of my life. I experienced a lot of dark
19 moments.

20 I came to the United States to escape
21 the political violence that destroyed my family
22 and everything we had in Columbia.

23 I began my college studies at a very
24 prestigious university, El Extenado, in Bogota,
25 but the violence suddenly took my father, our

1 home and land and left me in a coma for a year.

2 Once I relearned to walk, talk and
3 function normally, I had to make the tough
4 decision to leave all that I knew behind, my
5 family, friends and the community that I loved.

6 Here I began working three jobs to
7 support my family, leaving little time for money
8 to finish school.

9 After receiving a payroll check from
10 a job I was working, I attempted to cash it and
11 found out from that financial institution that it
12 was a forged document. Through my own ignorance
13 of the American justice system I found myself in
14 jail on a felony and penniless. The legal
15 representation was not very good.

16 Once I was able to get out, things
17 seemed so bleak that I no longer considered life
18 valuable.

19 I was estranged from my family, not
20 able to see my son, suffered a divorce and
21 sanctioned with a child support obligation that
22 started while I was incarcerated and increased
23 greatly over time.

24 I thought that all hope of finishing
25 college and having a career was completely lost

1 when my marriage fell apart and my home and
2 family were once lost again.

3 Such desperation led to months of
4 reckless alcohol abuse and depression. I
5 seriously thought of suicide.

6 After living with incarceration and
7 fighting to stay alive, I joined AA, Alcoholics
8 Anonymous, which led to my recovery and help with
9 developing a sober lifestyle.

10 I was blessed to have friends who
11 have supported me and helped me meet the right
12 people and resources to resolve my legal and
13 financial issues.

14 I was finally referred to the
15 Columbus Urban League. Since becoming a member
16 of the Columbus Urban League community, I have
17 established a relationship with my son and
18 learned how to be a father; I have been able to
19 secure employment; I have learned how important
20 community support is when one has lost his own
21 family.

22 Without my friends, adopted family
23 and the Columbus Urban League, my son would have
24 been without a father.

25 For this reason my deepest desire is

1 to finish the education I started and become an
2 attorney, that will allow me to provide a better
3 future for my son and allow me to help others
4 like me, on the brink of losing their lives the
5 way I was.

6 Currently I'm participating in other
7 supportive activities, such as the Columbus Urban
8 Leagues Restored Citizen Reentry Summit and the
9 National Task Force on Restoration of Rights and
10 Status after Conviction.

11 These types of initiatives are
12 designed to educate, restore citizens, and
13 restore resources and rights.

14 These are a few of the barriers I
15 have faced as a result of being a convicted felon
16 and these includes:

17 Elimination from employment
18 consideration, despite the details of my charge
19 and the amount of many time that has passed;
20 excessive obligation of child support and court
21 costs; impact of both custody and visitation
22 rights; inability to secure professional license
23 and driver's license; difficulty complying with
24 terms of probation, employment, stable housing,
25 et cetera; limited access to quality healthcare

1 and behavioral health intervention services.

2 My hope is that by coming here today,
3 I'll help shed light on many challenges that I
4 have faced and that many, many others have faced
5 as well.

6 My goal is to be the best father I
7 can and to contribute to the community in a
8 positive way.

9 Removing the collateral sanctions
10 that restore a citizen's face is very important.
11 I support their removal and thank you for taking
12 the time to hear my story.

13 MR. JONES: Thank you,
14 Mr. Torres. We appreciate it.

15 Mr. Frazier?

16 MR. FRAZIER: Good afternoon.
17 I would like to thank the National Criminal
18 Defense Bar for taking up this pressing issue, an
19 issue of great importance to all Americans.

20 Like the other two gentleman on the
21 panel I, too, am formerly incarcerated, whereas
22 they made one mistake in their lives and it kind
23 of defined them, I, on the other hand, was a
24 career criminal.

25 I was a counterfeiter, I made credit

1 cards. I did it for close to 30 years. I went
2 to prison five times. They said I took \$11
3 million. I don't know where it went.

4 My last number, in 1992, when I went
5 to prison -- I always loved to read, so I taught
6 myself to write, I managed to get published and
7 now I publish a magazine called "Reentry
8 Advocate."

9 You can pass that down. I generally
10 don't pass them out because some people start
11 reading it and stop listening to me.

12 The reason I decided to do that is
13 that -- the purpose -- and I don't want to get
14 too far off point -- your purpose is the Task
15 Force on Restoration of Rights and Status After
16 Conviction, that's so you want to make people's
17 lives better, so I get that.

18 How do you go about that? My way is
19 to try to make society more humane towards this
20 population.

21 The purpose of the magazine is to put
22 a human face on the population, to try to get
23 employers, to try to get family members to
24 realize these are human beings.

25 My magazine goes into prisons in 20

1 states currently. Every prison in Ohio, select
2 prisons and juvenile facilities, and it goes into
3 libraries in certain communities where a large
4 percentage of the people come from, and the goal
5 in prisons is to cognitively restructure
6 prisoners.

7 Part of the problem -- and I know as
8 you go around the country, you're going to talk
9 to a lot of people who say we want society to
10 change this, we want legislatures to change that,
11 we want people to step up and make these
12 changes -- I don't think enough emphasis is
13 placed on my little nephew, Ray Ray, who's
14 sitting in prison, who went to prison with a
15 tenth grade education and came out with an
16 eleventh grade education.

17 I get in trouble when I say this, I
18 sometimes think why should we let you out when
19 you have no skills to support yourself?

20 I've suggested to the director and
21 Terry Collins, the former director, what I would
22 love to see you guys advocate for, let's take a
23 prison in each state and turn it into where every
24 prisoner there is going to school and fund it.

25 We know that any prisoner that gains

1 more education -- as education increases,
2 recidivism decreases, known, proveable fact.

3 So what did we do in America, Kay
4 Bailey Hutchison killed PEL grants in the '80s,
5 and there are still no PEL grants, so we know
6 education works but we take the money from it.

7 Then we say, well, let's pray over
8 it, let's make it faith-based and then turn
9 society's obligations to try to solve the problem
10 over to the faith -- and I have no problem with
11 the faith-based community, they do a very good
12 job in a lot of cases, but it's still -- so it is
13 just a -- my fear, though, is it's going to go
14 toward privatization, so how much are these
15 people really interested in solving the problem
16 once you start going to privatization, that's
17 another whole story.

18 In terms of people coming back from
19 incarceration being qualified and fit to work, I
20 don't know if you realize when President Obama
21 got elected, on his way to Washington, to his
22 inauguration, he stopped in Cleveland.

23 He stopped actually about 20 miles
24 outside of Cleveland, a little city called
25 Bedford Heights, to a place called Cardinal

1 Fastener. I don't know if you remember that.

2 He stopped there for a reason,
3 Cardinal Fastener employs about 120 people, about
4 110 of them are formerly incarcerated but the
5 owner doesn't tell a lot of people because he's
6 afraid if it got too well known, they might not
7 buy his products, just like Ms. Jackson said, the
8 secondary boycott because you use this
9 population.

10 Those of us that work in this field
11 know that people who are negatively credentialed
12 by felony conviction have a lot to prove. They
13 will be good employees if you give them a chance.

14 But something I think the gentleman
15 at the end, you were talking about legislators,
16 they get elected by posturing as tough on crime,
17 so they will make laws that stop people from
18 getting back into the employment market.

19 So one of the things that we do at
20 our non-profit, we try to figure out ways to
21 model off of what they're doing in San Francisco
22 with the Delancey Foundation, which means that we
23 try to create work for this population.

24 There was a study done by a woman
25 named Devah Pager, she's a Princeton professor.

1 She took four groups of people, same age, similar
2 backgrounds, and had them go out and apply for
3 jobs.

4 One group was white and said they had
5 never been to prison; one group was white and
6 said they had been to prison; another group was
7 black, said they had never been to prison; the
8 fourth group was black and said they had been to
9 prison.

10 Well, this being American, we know
11 the group, the white guys who had never been to
12 prison, got called back the most.

13 Who got called back the second most?
14 White guys that had been to prison got called
15 back more than black guys that had never been to
16 prison.

17 So the whole thing of a felony
18 conviction is a bit of a chimera, it's not
19 necessarily the thing, the reason you don't get
20 the job, sometimes it's an excuse.

21 Now, that study has been replicated
22 in New York City. She did it the first time in
23 Milwaukee. And I would like to see it
24 replicated in other cities so we confront this
25 issue of what's really behind this whole notion

1 of felon convictions.

2 Part of it -- as the gentleman in the
3 middle was saying -- part of it is very
4 political. The more people with felony
5 convictions, the less people voting on certain
6 sides of the aisles.

7 If people in Florida could have
8 voted, we wouldn't have had eight years of --
9 well, eight years we probably could have done
10 without.

11 So one of the things that -- you
12 know, as lawyers when you say what can we do, I
13 think you have to move back a step, what can we
14 change.

15 Actually by the time the person has
16 been tagged with that felony conviction and,
17 let's face it, in Cuyahoga County 6,000 people
18 come back from prison every year with a felony
19 conviction, but 12,000 get a felony conviction
20 and never go to prison, so they're just as
21 negatively credentialed, so they have the exact
22 same problem.

23 So in Cuyahoga County, and I think
24 it's in a lot of other counties, stacking up high
25 numbers is what prosecutors do.

1 We know that in Cuyahoga County there
2 was this thing about crack pipes and all around
3 the suburban areas a crack pipe was a
4 misdemeanor, in Cleveland it was a felony, here's
5 why: The police got overtime for going to court
6 to testify, so they didn't want to change it from
7 a felony because these police officers were
8 making money off of it.

9 So how do you get prosecutors to
10 start charging fairly, start not overcharging
11 people, the only way I can see it.

12 You know, in Cuyahoga County, as in
13 most places, 90 percent of the cases are plea
14 bargained, 10 percent go to trial.

15 Well, if you raise that to 20 percent
16 going to trial, the jury system could not handle
17 20 percent going to trial, not in this county, so
18 that would tend to make the prosecutor make
19 better deals and drop some charges because, you
20 know, too often -- I do have a bone the pick with
21 lawyers -- that sometimes you guys kind of want
22 to keep the process moving along, so you kind of
23 go along with stuff that you know ain't quite
24 right, but, boy, we've got to get them through
25 this chute, from here to there, or the system is

1 going to clog up.

2 I suggest let's clog up the system a
3 little sometimes, then maybe we'll start making
4 the changes to reduce the population that is in
5 prison.

6 MR. JONES: Thank you, sir.

7 Geneva?

8 MS. VANDERHORST: Thank you to
9 each of you.

10 You may know that this is actually
11 the third jurisdiction that we've visited. We
12 have a good sense of what's going on, the general
13 issue, but there are certain things that we have
14 not been able to gather a lot of information on,
15 and as you can imagine, a big topic, a big part
16 of that is sex offenders.

17 So I would like to start in the time
18 that we have left with Ms. Jackson, particularly
19 talking about the treatment experiences of sex
20 offenders in Ohio, with a particular view towards
21 women sex offenders, which I don't think we've
22 got any information on in the jurisdictions we've
23 already dealt with.

24 What's happening to them in terms of
25 treatment, and then when they get released, where

1 are they staying? Where can they actually live
2 and not violate?

3 MS. JACKSON: Currently there
4 are very few places, halfway houses, even the
5 community-based facilities don't have the
6 treatment piece to ensure that these individuals
7 are receiving the treatment that they in fact
8 need prior to release into the community.

9 And for the most part -- I just
10 recently dealt with this situation, which we had
11 a female offender returning to our county and we
12 had no placement for her. Although we have a
13 homeless shelter they, of course, will not take
14 sex offenders. Her father is on metro housing,
15 that prevented her living at that apartment. She
16 could not live at her biological son because she
17 had a two year old grandson in the home, she was
18 left to be homeless.

19 We did have another county step up to
20 the plate and agree to take her to a halfway
21 house about two and a half hours south of our
22 city, and at that point -- so there was a problem
23 with parole departments and who was going to
24 supervise her, and who was going to make payments
25 to this halfway house, which county, because

1 technically she was ours.

2 And she ended up coming back to our
3 community, again homeless, and ended up at a
4 behavioral health center because when she knew
5 she was going to be homeless, she was going to
6 commit suicide.

7 This is a problem, too, now we're
8 spending \$400 a day for this individual to be in
9 a behavioral health center because they won't
10 release her as homeless, but nobody wants to foot
11 the bill or we don't have money for halfway
12 houses. This is a huge problem for these
13 individuals. Women are especially faced with it,
14 because there are just not a lot of sex offender
15 treatment facilities for them to go to in the
16 State of Ohio. I think that is probably true
17 nationally.

18 MS. VANDERHORST: So we've heard
19 about 2100 Lakeshore?

20 MR. JONES: Lakeside.

21 MS. VANDERHORST: Lakeside, in
22 Cleveland, where a lot of male sex offenders can
23 stay. Apparently it's an industrial area, away
24 from schools, churches, daycares and the like.

25 We've also heard some counties will

1 hold sex offenders in jail until they can find
2 housing.

3 Where does your county fall among
4 those extremes, in terms of are they holding
5 people or are they releasing them and then
6 placing them in specific areas?

7 MS. JACKSON: For the most
8 part, many of them -- unless they have a support
9 system or i-e a friend or a relative that is
10 approved, a large part of them are homeless, a
11 large majority of them. We've seen our homeless
12 population rates sky rise since the inception of
13 the registry. And I can say that first within
14 the two counties I work in, and then the
15 Volunteers of America, in Richland County, Ohio,
16 because people won't rent to them.

17 We actually also have sex offenders
18 in our jurisdiction who are working and living in
19 their car because they can't find anybody to rent
20 an apartment to them.

21 MS. VANDERHORST: So what's
22 happening in terms of whether or not they're
23 violating --

24 MS. JACKSON: The parole
25 office is well aware of this.

1 MS. VANDERHORST: Another question
2 I had, we've had some discussions about
3 employment issues impacting family members of sex
4 offenders, male and female, because addresses
5 have to be published on registries.

6 Can you talk to us a bit about how
7 people are dealing with that in Ohio, how family
8 members are being impacted and what barriers
9 there are for them, in terms of being employed,
10 just for supporting other family members?

11 MS. JACKSON: Wow, I can come
12 up with so many examples on this. One example I
13 want to give, it's clear in my mind, is that we
14 had a gentleman who was released quite some time
15 ago, in 2002, and he had done 19 years
16 incarceration.

17 He found very gainful employment, and
18 at that time I think the economy was even a
19 little bit better, manufacturing was a little bit
20 better, and he worked for a company actually
21 here, in Cleveland.

22 And he had asked us -- because the
23 question, you know, the felony question was on
24 there, have you been convicted of a felony within
25 the past seven years, he asked myself and he

1 asked his parole officer, and we said, well, no,
2 you've been convicted many years ago, it's okay
3 for you to say no.

4 Indeed, once that company did find
5 out he that he was on the sex offender registry,
6 though, they fired him after three and a half
7 years of employment. Sadly he was denied
8 unemployment as well.

9 And although he contacted attorneys,
10 he contacted the DRC again, because they based
11 this decision on the fact that he had given the
12 State of Ohio, London Correctional Institution,
13 as part of his experience on his application, so
14 that's why they decided to terminate his
15 employment, but, obviously, it was probably
16 because he was a sex offender.

17 But he had a wife and two children to
18 support, and his wife at that time didn't have to
19 work because he was making fairly good money and
20 they had two small children.

21 So the impact to the families is
22 unbelievable, and I think that that's what's
23 probably made me a little more sensitive to that
24 issue surrounding sex offenders, because of the
25 mothers, the amount of family members that call,

1 their sons, their daughters.

2 They have maybe obtained -- you know,
3 they're degreed people. This is a crime that
4 they're not usually, normally career criminals.
5 They come from socioeconomic families and
6 backgrounds that aren't necessarily used to the
7 criminal justice system or have been involved in
8 it, and all of a sudden this is just very --
9 they're a little more willing, maybe they have
10 some money, but they're going through their
11 retirement plans, their 401, they're cashing in
12 these plans and still only to find out that their
13 son cannot pursue a career maybe in the
14 profession they were going to because it involves
15 working with people directly and they can't work
16 in the social services field.

17 There are very few fields actually,
18 besides manufacturing, that I can think of, that
19 they may be eligible to work in, maybe
20 landscaping, but again, if they're going to
21 people's homes, that's not allowed.

22 I think it affects them, it affects
23 all offenders, there is no finality. That's the
24 bottom line, there is no finality. What are we
25 doing as a society to just forever condemn

1 people?

2 MS. VANDERHORST: I think on the
3 website for Wayne-Holmes Reentry Coalition, I saw
4 that you all started out as a children's cluster
5 and national service, juveniles and adults.

6 MS. JACKSON: Yes.

7 MS. VANDERHORST: What kind of
8 services do you offer for juveniles?

9 MS. JACKSON: Currently we're
10 in our planning grant, we just received that this
11 year and we will be utilizing new programming
12 that also utilizes mentoring. We've had very
13 good work with mentoring adults.

14 The agency that I'm employed for does
15 some mentoring through our local court systems,
16 our county court system, so this will enable us
17 to bring in more of these juveniles out of the
18 placement institutions and provide services for
19 them, as well.

20 MS. VANDERHORST: One last
21 question, you talked about particular employers
22 who were hiring sex offenders.

23 Are you aware of how they have been
24 able to get through barriers, where some other
25 employers have been saying they can't because of

1 insurance issues, because they have to disclose
2 to their clients?

3 MS. JACKSON: The few
4 employers that are willing to employ the sex
5 offenders, from what we've seen in our community
6 specifically, are usually what we would consider
7 sweat shops, for lack of better terminology.

8 They are places where the majority of
9 the people do not want to work. There is no
10 place for them to work up the ladder and become
11 self-sustaining. They're \$8 an hour jobs or it
12 may be a temporary factory that they're not going
13 to ever become -- be able to find sustained
14 employment.

15 MS. VANDERHORST: Thank you.
16 Mr. Gunnell, I'm interested in -- you talked
17 about getting a broker's license. I'm interested
18 in what I saw as the seven years that you were
19 self-employed.

20 MR. GUNNELL: Right.

21 MS. VANDERHORST: How were you
22 able to get through some of the barriers that
23 have kept other people from getting licenses?

24 I understand, is it accurate, that
25 you're still in the process of trying to get your

1 record expunged?

2 MR. GUNNELL: Pardoned. I
3 have a first degree felony, which by Ohio Revised
4 Code cannot be expunged.

5 How I got through the barriers is you
6 have to disclose it, any information. Any
7 licensing that you apply for, of course, it's on
8 there.

9 At the time I got my broker's
10 license, I had been out, it was close to eight
11 years and if I am not mistaken -- I'm thinking it
12 was around 1997, so I had probably been out
13 probably a little longer than that, it was
14 probably ten or eleven years when I got my
15 brokerage license.

16 After going through the
17 administrative process and actually having a
18 hearing and dealing with the administrators, they
19 approved my license, so I guess I was lucky,
20 because now it's a whole lot more scrutiny that's
21 involved.

22 Also, State of Ohio, you cannot
23 have -- I think it has been stated, you cannot
24 own a construction company; you cannot have a
25 state plumber's license; you cannot have a state

1 electrician's license, if you have a felony
2 without some kind of administrative review. I
3 don't know if it's flat out, but it's stated
4 there, in state documents.

5 MS. VANDERHORST: Can you give us
6 an idea of what the process was? When did you
7 apply? How long did it take them to make a
8 decision?

9 MR. GUNNELL: It took probably
10 somewhere in the neighborhood of 90 days and it
11 was actually the broker who I was currently
12 working for who actually, I think, put the
13 deciding factor in there.

14 He wrote letters and made phone calls
15 and testified, you know, to me, my character, the
16 fact that he thought that I would not participate
17 in any more criminal activity.

18 So it was on the recommendation of
19 him, it was on the recommendation of my
20 references that I believe got me through.

21 MS. VANDERHORST: There's a group
22 you work with called What It Takes?

23 MR. GUNNELL: What it Takes.

24 MS. VANDERHORST: Can you talk to
25 us a little about that?

1 MR. GUNNELL: Actually What It
2 Takes is three individuals, we're committed,
3 three individuals who have a passion for dealing
4 with social injustice issues. It's actually
5 three-part. We all three have different areas of
6 focus. We come together under one umbrella
7 because we endeavor to create social enterprises
8 and holistic communities.

9 One of my counterparts, named Ellen
10 Raygard (phonetic) is very, very active in the
11 court systems, which, you know, I get involved in
12 that part, but I'm more on creating employment
13 and this is what I seek to do.

14 She's involved in the court systems
15 and she actually speaks, when individuals are
16 recommended to her, to judges and prosecutors, as
17 far as mitigating sentencing, trying to ensure
18 that there is justice for the individual that she
19 may be going in support of, because a lot of
20 times the public defenders don't have time to
21 actually dig into what's actually going on.

22 She has had some success in dealing
23 with individuals here and there, as far as
24 getting their circumstances mitigated, getting
25 them committed to their family, making sure that

1 they are engaged in programs which try to
2 prohibit the activity that got them involved in
3 the first place.

4 Myself, I try to deal with
5 organizations, people, who can specifically
6 provide jobs for people who have criminal
7 records.

8 There are a number of them in
9 Franklin County that have that lettering on their
10 door, if you will, but they do absolutely
11 nothing.

12 There are a lot of dollars out there
13 to provide programs for writing of resumes.
14 There's not enough education.

15 The money for people who have
16 criminal records is actually kind of dried up.

17 But they do job skills. They provide
18 job skill testing and other kinds of what I call
19 cursory services but they do very little to
20 provide actual employment, actually having a
21 position in their company or knowing someone who
22 has a position in their company that will hire a
23 person who is an ex-offender, will help train
24 that person in that kind of employment.

25 I have worked extensively with an

1 organization out of Indianapolis called Workforce
2 Development, Inc. and what they -- everyone who
3 works there has a record, probably somewhere in
4 the neighborhood of 50, 55, 60 people.

5 Now they do electronic recycling and
6 they go out with their mission and with their
7 purpose and have received tons of accolades and
8 things from the State of Indiana, and actually
9 have had audiences with the governor, and just
10 recently received federal grants to continue
11 their efforts.

12 I have been working with them in
13 trying to start the same kind of initiative in
14 Columbus, because they have had success.

15 They have been in business for about
16 six years, and they can actually spin off from
17 their employment, because there are people that
18 have been working there for the whole six years,
19 people who have minimal skills, people who may
20 not have GEDs or that sort, or might need, you
21 know, other kinds of support. They provide and
22 they're trying to expand it to all of them,
23 that's just one part of it.

24 Organizations, I think it can best be
25 helped if, you know, nonprofits or people who

1 service -- including ex-offenders because they're
2 offenders, too -- this population or this segment
3 of the population, try to understand or that
4 getting into the market, they can earn a profit,
5 too, by what they do in their efforts.

6 Grant dollars are really hard to come
7 by, and they usually go to people who are too
8 politically connected or people who are in the
9 upper echelon, if you will, for lack of a better
10 term, and a lot of them, what they end up doing
11 is paying themselves and the people they employ
12 higher salaries, where very little dollar goes to
13 a person who actually might need a job or need
14 benefits or something.

15 Nonprofits or even other
16 organizations in the corporate world could do a
17 spinoff, whereas a person or people who have that
18 passion can create employment, they actually can
19 create employment, and there's tons of ways you
20 can create employment.

21 MS. VANDERHORST: I was about to
22 ask you that. We understand on state
23 applications there's a whole issue in some
24 counties on banning the box.

25 MR. GUNNELL: Franklin County

1 is one of them.

2 MS. VANDERHORST: With private
3 employers, how are you attracting them to hire
4 people with prior records?

5 MR. GUNNELL: With a lot of
6 pain because of the stigma that goes along with a
7 person who has a record, quote, unquote, and in
8 papers, the media, is good for this, calling them
9 "felons." That just puts us into a whole new
10 category.

11 You have to get audiences with them;
12 you have to actually tell them that the federal
13 government does provide a program for tax
14 credits; you could actually get bonding for a
15 person who has a criminal record to alleviate the
16 insurance issues of it.

17 A lot of them just flat out tell you
18 we're not interested.

19 MS. VANDERHORST: Are there
20 bonding sources available in Ohio, state bonding?

21 MR. GUNNELL: Yes, yes. It's
22 actually through the State of Ohio. It is
23 administered by the federal government but
24 through the State of Ohio.

25 Hopefully the funding for that is

1 going to continue. The last I was involved in
2 it, it was still here, but is it not nearly
3 enough. It is not nearly enough.

4 You know, it's in the several hundred
5 thousands, but when you do five thousand per
6 person, believe me it gets ate up real quickly,
7 and a lot of times it's even more than that.

8 Hopefully programs like that
9 employers will take advantage of and understand,
10 especially with the tax credits, but because of
11 the stigma that is put on people who have felony
12 records, corporations shy away from it. They
13 don't generally want to entertain it, but we can
14 make an inroad by education, by attorneys getting
15 involved, truly that way you can get involved, by
16 just bringing it out to society that, you know,
17 we're just people.

18 In my instance the person that
19 committed that crime in 1983 is no longer around,
20 but it does not matter he is no longer around.
21 When I have to disclose a felony, I am viewed in
22 that circle, that part of society, as a felon.
23 So it has to change. It has to change.

24 MS. VANDERHORST: Mr. Torres, you
25 dealt with a lot of different levels of

1 government entities.

2 Who do you think should have been
3 responsible for telling you about your whether
4 your record could be expunged or sealed, so that
5 you could get through some of the barriers that
6 you dealt with a little quicker?

7 MR. TORRES: One of the
8 biggest problems I faced was actually lack of
9 information. Nobody informed me of what I was
10 facing at that point.

11 When I went through the court system
12 and I was charged with this, I didn't know the
13 consequences.

14 I thought that after walking out of
15 there, I would be able to clarify my situation
16 through my job ethic and my references and my
17 past experience working and that would be enough
18 to clean my name if I could say. But I never
19 thought I would face something like that, that
20 would block me like it did, to find a house, I
21 couldn't drive, I couldn't see my son, I couldn't
22 get out of the county, so at some point where I
23 just found myself completely blocked and without
24 any resource.

25 The only way that I did it, that I

1 walked out of it, was just me just reaching out,
2 knocking on doors and ask to every other person I
3 knew what could I do about it, who could help me.

4 MS. VANDERHORST: So between your
5 lawyer, the prosecutor, the judge, any probation
6 or parole officers that you dealt with, who do
7 you think should have been responsible for giving
8 you some of that information?

9 MR. TORRES: I believe that
10 probably to start with my probation officer,
11 being in charge of me being successful on the way
12 out of the problem, I was hoping -- I was waiting
13 from her to have some information, some guidance,
14 what's the right way to go. You know, taking
15 advantage of my skills and of my background, what
16 was the right way to go to go back into society,
17 but actually what I found from her were more
18 barriers and, obviously, being careless about me,
19 about my situation of any kind.

20 So I was seriously -- I tried to hurt
21 myself many times, just by the grace of God it
22 didn't happen because I just didn't find any
23 other way.

24 Actually what is really funny, that I
25 told my friends, I wasn't even able to go back to

1 my country where I could get a job. I wasn't
2 able to either stay here or go back, so it was --
3 it was a lose-to-lose situation.

4 And again, by the grace of God I just
5 found the right people, just some key person in
6 society, Columbus in particular, that care for
7 me, that knew who I was. I saw you and children
8 in courts, where you took care of somebody new in
9 this hospital, so they knew I was actually a good
10 person and I deserved an opportunity, and I
11 started working with the community.

12 And now that I got the help, I want
13 to give back to the community, that's the way it
14 works.

15 MS. VANDERHORST: I want to ask
16 you about your court interpreter services because
17 in some jurisdictions we have covered already we
18 found some barriers have been because forms are
19 only in English or they don't have interpreters
20 available to explain certain things that people
21 can do.

22 When you're working as a court
23 interpreter, are you finding language or any kind
24 of cultural barriers that are preventing people
25 from being able to clear their records or learn

1 the process to clear the records?

2 MR. TORRES: Completely. All
3 kind of barriers, just from the point where some
4 of this -- people don't have any knowledge of the
5 process and they don't know how to follow
6 through, nobody just give them some basic
7 guidance.

8 They're only forms, but to tell them
9 that if you get this form, it is faster than this
10 form. Simple instructions they don't have.

11 And even situations where people from
12 Central American, from very strong indigenous
13 culture origin, that didn't speak good Spanish or
14 non-Spanish and they look Hispanic, so they
15 called in a Spanish interpreter.

16 A Spanish interpreter will come in
17 because they want to make some hours, make some
18 money, they don't tell that this guy doesn't
19 speak any Spanish.

20 This interpreter for this guy, he
21 don't know what's happening, from English to
22 Spanish. He is lost and being incarcerated for
23 years, and I came in and I found out that this
24 defendant is actually not a Spanish speaker, he
25 speaks Mam from Guatemala, that has nothing to do

1 with Spanish.

2 Or situations where this very older
3 man was asked why were you driving without a
4 valid license. He would give the explanation,
5 then when being asked would you plead guilty or
6 not guilty, no, I didn't mean to, he would say, I
7 didn't know that I couldn't drive. So he said no
8 guilty, go back to jail. He had a heart
9 condition, sugar problems, he was about to die
10 there, until I realized -- I was called for that
11 case and I realized what's happening.

12 I asked the judge to give me a
13 minute -- that is out of the rules but I knew the
14 judge -- and I talked to the defendant and I said
15 they are not asking you if you mean to do that,
16 or you knew about it, they're asking if the facts
17 are true.

18 Yeah, yeah, sure.

19 Then you're guilty, and that's all
20 you have to say is you are guilty.

21 He was back to home, he was back to
22 Mexico the week after. He almost died in there
23 because nobody explained to him.

24 So the barriers are from the very
25 basic and then to interpreters. The Supreme

1 Court of Ohio is working on training interpreters
2 to work in court, but for years they were not
3 trained, so we got people that worked in a fast
4 food restaurant for many years and they were
5 court interpreters.

6 They didn't know the terminology,
7 they were making up words. The judge didn't know
8 Spanish. He looks Spanish, maybe he's speaking
9 Spanish.

10 MS. VANDERHORST: Do you do these
11 dual interpreters? That is where you have one
12 interpreter for the defendant and maybe a second
13 person to kind of back them up and be sure
14 they're being accurate in court.

15 MR. TORRES: No, actually
16 there is just one interpreter that is in charge.

17 I know about it because I worked with
18 a business partner giving classes to some
19 attorneys and judges in court, in that program,
20 for about a year a couple years ago.

21 One of our students, one of our
22 public defenders was in this trial taking notes
23 of what was said, and this interpreter said, when
24 asked to interpret do you agree with the
25 arraignment, he said in Spanish (Speaking in

1 Spanish) alamentio (phonetic) and arraignment
2 sound alike in Spanish. That's not a word. He
3 didn't know how to say that in Spanish.

4 So our student, a really, really good
5 student, asked the question, is this alamentio,
6 not even a word.

7 So this guy was found -- was making
8 up everything and people were in jail because
9 they agreed to something, they didn't know it was
10 that. They were just afraid in court to say no,
11 said yeah, he was agreeing on the charges filed
12 on him, but he didn't know that alamentio meant
13 that.

14 MS. VANDERHORST: We're about to
15 hit time.

16 I do want to ask Mr. Frazier if you
17 could make available a publication I think that's
18 on your website called, "Best Practices," that I
19 read about. If we could find a way to get a copy
20 of it.

21 MR. FRAZIER: Yeah.

22 MS. VANDERHORST: That's a bit of
23 what we're doing, is trying to find the best
24 practices and find the areas in other
25 jurisdictions' practices.

1 MR. JONES: We are almost
2 out of time, but I'd like to get Larry Goldman in
3 on the conversation since he just joined us, if
4 he has any questions.

5 MR. GOLDMAN: Thank you. This
6 is excellent.

7 You brought up what is a problem that
8 I heard this afternoon from certain people
9 working with the reentry court, that no matter
10 how much their record is expunged, vacated,
11 whatever, it comes out in the internet, you
12 Google someone's name and they come up.

13 Considering that -- and there is a
14 First Amendment, which we use and defend -- what
15 could we recommend in terms of laws that would
16 eliminate that, that wouldn't offend what a lot
17 of people think are First Amendment protections?

18 I know this is a tough question, but
19 you have probably given more thought to this than
20 I have.

21 MS. JACKSON: I think there
22 needs to be some type of -- you know, a lot of
23 the answers are all the time to come up with a
24 governing board, if you will. I mean, that's
25 what we do in the government. But there probably

1 needs to be some guidelines to companies who are
2 private and provide this type of information to
3 the public.

4 You know, one of the things that I
5 always -- I constantly hear from former
6 offenders, and it's kind of funny but it's true,
7 we don't always think about this in this broad
8 sense, why does somebody in Bonn, Germany need to
9 know where I live and where I work.

10 And you don't always -- those are
11 things we don't always have to give. You know,
12 as basic as that sounds, we don't always give
13 notion to that.

14 I was hoping that -- there's an
15 attorney in this Cleveland area by the name of
16 Alicia Guardia and she is phenomenal when it
17 comes to background investigation work and so
18 forth, and her suggestion has been, as well, why
19 don't we have any checks and balancing system or
20 governing board that supersedes these agencies
21 that are providing this information.

22 MR. GOLDMAN: Let me ask you
23 this: If there were a law -- and I don't venture
24 to guess whether there were constitutional
25 problems or not, which would say that a private

1 company may not disclose the records of those who
2 have had their records, their criminal records,
3 vacated or expunged -- would there still not be a
4 problem, as we heard, doing it, because,
5 obviously, it isn't expunged until say a year
6 after the arrest? Would that be allowed?

7 I mean, my initial reaction frankly
8 when I heard this is, hey, not many of us may
9 Google with our cases, but do you think that
10 would be a sufficient solution?

11 MS. JACKSON: Yes, I do.

12 MR. JONES: One last
13 question.

14 Elissa?

15 MS. HEINRICHS: No.

16 MR. JONES: Penny?

17 MS. STRONG: No.

18 MR. JONES: Chris?

19 MR. WELLBORN: No.

20 MR. JONES: Love?

21 MS. LOVE: No.

22 MR. JONES: Thank you. We
23 appreciate your testimony. Thank you very much.

24 That concludes our hearing for today,
25 we will reconvene tomorrow at 9:00.

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(Thereupon, the hearing was concluded at 4:58 p.m.)

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