

After the Sentence, More Consequences: A National Report of Barriers to Work
Webinar Transcript
April 26, 2021

[Slide 1 — After the Sentence, More Consequences: A National Report of Barriers to Work]

Chidi Umez: Hello, and welcome to our presentation titled “After the Sentence, More Consequences: A National Report of Barriers to Work.”

[Slide 2 — Reentry Week | April 26-30, 2021]

As you know, April is Second Chance Month, and this presentation is part of Reentry Week from April 26th through the 30th.

You can join the conversation by using #reentrymatters, #reentryweek, and #reentryweek21 on all of your social media platforms. And during Reentry Week, the National Reentry Resource Center (the NRRRC) will be your home for resources and virtual events.

[Slide 3 — Speakers]

Our speakers today will be Josh Gaines, project manager with The Council of State Governments Justice Center’s economic mobility team; Nate Brown, policy advisor for the Division of Professions and Occupations in the Colorado Department of Regulatory Agencies; and I am Chidi Umez—I will be the host for today—deputy program director, with The Council of State Governments Justice Center, economic mobility team.

[Slide 4 — Agenda]

Today, our agenda will include an overview of employment and reentry looking at employment-related collateral consequences and their operation across the country, considerations for policymakers, and then we will have a conversation with Nate Brown about some lessons learned from the Colorado Department of Regulatory Agencies and some of the work that they've been doing there around reducing barriers to work, particularly in licensing. And so, with that, I'll hand it over to Josh.

[Slide 5 — Collateral consequences impact individuals and their families]

Joshua Gaines: Thank you, Chidi. So, what are collateral consequences? When we talk about collateral consequences, we’re talking about legal barriers that limit the ability of people with criminal convictions from accessing rights, benefits and opportunities, and specifically within the scope of this presentation we're going to be talking about barriers imposed by statutes and by regulations, both at the state level and at the federal level.

Despite their relative obscurity, individual collateral consequences have a very real impact on individuals and their families. Some research done on a sample of people that was conducted by the Ella Baker Center back in 2015 found that one in four people were denied or barred from educational loans because of their conviction, 26 percent remained unemployed five years after release from prison, and 79 percent of people were ineligible or denied housing due to their own or the conviction of a loved one.

And what collateral consequences imposed by law—they're just part of the equation. The other being the less formal, stigma-based discrimination that takes place by private actors—so this is employers just being generally unwilling to hire people with criminal records, for example.

But still, these collateral consequences imposed by law have a significant impact in a number of key areas, including public employment, occupational licensing subsidized housing and federal student aid.

[Slide 6 — Employment is an important factor in reentry]

And collateral consequences have significant implications for reentry outcomes, particularly with respect to employment. Employment and economic mobility are both critical to ensuring positive reentry outcomes. Employment creates more positive relationships, it provides income for individuals and their families, and it promotes more pro-social activities. The end result of that is that it makes it less likely for people to reoffend.

So, successful reentry strategies and policies benefit from consideration of legal barriers to employment to encourage positive outcomes.

[Slide 7 — No area is more affected by collateral consequences than the opportunity to work]

No area, in general, is more affected by collateral consequences than the opportunity to work. Collateral consequences affecting employment make up the vast majority of all collateral consequences imposed by state and federal law. In fact, they account for over 70 percent of the 40,000 plus collateral consequences. And those consequences were identified in the National Inventory of Collateral Consequences of Conviction, also known as the NICCC (N-I triple C). It was created in 2013 pursuant to an act of Congress to catalog barriers to work, housing, education and other rights and benefits and opportunities imposed by the laws and regulations of all 50 states and the federal system.

It's publicly available, the inventory, and it allows consequences to be searched by state, by type, and other relevant features. As I noted, there are now 40,000-plus consequences catalogued in that database.

[Slide 8 — Collateral consequences have a greater impact on work for people of color]

The cumulative impact of employment-related collateral consequences and general stigma-based discrimination against workers with criminal records is very broad. The research suggests that it's not equally shared across communities.

The unemployment rates of formerly incarcerated people of color in their prime working years are significantly higher than those of their white counterparts. Moreover, the fact that people of color disproportionately prosecuted for crimes mean that they're far more likely to be impacted by employment-related collateral consequences. So, employment collateral consequences sit in an important juncture between issues of criminal, economic, and racial justice in America.

[Slide 9 — Consequences related to employment and work exist in three ways]

So, how do these collateral consequences that affect employment work? Well, there's three main ways. First, they can limit the ability of employers to hire retain workers with conviction. They can limit access to occupational or professional licenses that are required to work in certain fields or industries. And they can limit access to business licensing and to participation in businesses as, say, an officer, a director, an investor, or an owner.

And to better understand the operation of these employment-related collateral consequences, I'd like to take a little bit of time to walk through some of the key findings from a more recently released report on the scope and operation of employment-related collateral consequences. All the data that follows is

based on CSG's high-level analysis of the thousands of employment-related consequences catalogued in the NICCC.

[Slide 10 — Licensing opportunities are most commonly impacted by employment-related consequences]

Licensing opportunities are most commonly impacted by employment-related collateral consequences. You can see, the numbers here, and there's not a huge difference between all of them, but I think there's the broad point here is that licenses of all types, whether they be occupation or business licenses, are where the bulk of the barriers lie, rather than prohibitions on employer hiring or retention.

One thing to note about the business licensing and participation, and sort of why we consider that to be an employment-related issue, is that they're particularly important for workers with convictions (business licenses and the ability to start a business) mainly because it can be very difficult for them to find work elsewhere—either due to that general stigma against hiring workers with convictions or to these other types of collateral consequences.

They're also important given the rise of the gig economy, where traditional employment models are starting to give way to more piecemeal contract work. That's something that's most commonly typified by the rise of Uber/Lyft ride sharing services and these sorts of things, where instead of retaining regular full-time employment, people are cobbling together their own form of economic mobility through different types of opportunities.

[Slide 11 — The health care industry is most affected by employment-related consequences]

On this slide here, we can see that the health care industry is the most affected by employment-related collateral consequences. The data here walks through the top 10 sectors and industries that are impacted, and the numbers next to that are the number of provisions of law across the country that limit opportunities to employment, or to work in those areas.

And you can see there's a wide array everything from healthcare, education in schools, insurance, transportation, adult care, etc. And I'll get into a little bit more of what those numbers mean later, but I just want to point out here that the fact that healthcare is the most impacted universally, and this is true in every state, is really problematic because it also tends to be the most in-demand field in every state. The projected growth of the healthcare sector continues to rise across the country, wages are relatively high, as are opportunities for advancement within the field, and this is the very field where the most barriers to employment exist for people with criminal records.

[Slide 12 — Numbers vs. impact: not all barriers are equal]

Now to get into what those numbers mean a little bit I think it's important to clarify a little bit here, and that is that not all barriers are created equal. Which is to say that the numbers of collateral consequences that we're talking about don't necessarily equate to the impact of a particular collateral consequence in a field, or the cumulative impact of a big number of collateral consequences across the field.

Now they're useful touch points, the numbers, for understanding the scope of the issues, but it can obscure the true impact of these laws. So, a single consequence can have an incredibly broad impact across a variety of opportunities, or it can have a very narrow impact across an incredibly specific line of work.

So, here are two examples of provisions imposing employment-related collateral consequences in two different jurisdictions that hopefully will illustrate the point. The first one is from Georgia. We would count this in the National Inventory of Collateral Consequences as one consequence but it's very narrow in its application. It prevents people convicted of the legal taking of crocodilian species or their eggs from being an alligator farmer for two years. Obviously, the narrowness of that offense, and the fact that applies to a very narrow set of work, means that that one consequence will have a relatively minor impact.

And compare this against a law from Vermont, which essentially authorizes the disqualification for any occupation or professional license in the state for a felony, of any kind, whether or not it is related to the practice of the profession. Again, each of these only counts for one when we're looking at this data, but the impact of that second one you see on the screen is far, far broader, so that's something important to keep in mind as we continue to look at these numbers.

[Slide 13 — Just over half of employment-related consequences are subject to the discretion of decision-makers]

Getting back to the operation of these consequences, there's two main ways that they function at a basic level. They can either be mandatory, which means that they must be imposed upon a person with a disqualifying conviction, or they can be discretionary, which means that they may be imposed upon a person with a disqualifying conviction.

Across the country, the balance between the portion of collateral consequences that are mandatory and discretionary is pretty even. Mandatory consequences, I think it goes without saying, are hugely problematic because they disqualify workers solely due to the fact that they have been convicted of a particular crime. Consequences that are mandatory don't allow for consideration of a person's rehabilitation, the specific nature/circumstances of the offense, or whether there's any relationship between that offense and the job or the licensed activity that the person is seeking to participate in. As a result, they inevitably exclude at least some workers whose participation in a particular field or industry poses no actual risk to public safety.

It's important to note that although discretionary consequences are preferable since they're not necessarily disqualifying, they can be just as problematic when they're not properly tailored or implemented, and that's something that will discuss in a little bit more detail later.

[Slide 14 — The overwhelming majority of employment-related consequences persist indefinitely]

Apart from whether consequences are mandatory or discretionary, another key feature is their duration. Most collateral consequences last indefinitely, and the National Inventory of Collateral Consequences categorizes the duration component of collateral consequences operation in two ways. It says they're either time-limited, in where a person is only subject to the barrier for a limited period of time, usually measured in a period of years since conviction. This, for example, would be "no person shall be given a nurse's license who has been convicted of a felony in the previous 10 years."

Or they can be indefinite, where there's really no time limit at all attached. And the end result of that is often that a person is going to be subject to that barrier for life unless relief is provided in the form of expungement or a waiver or some other legal mechanism that the worker actually has to go and seek out and apply for and obtain.

The fact that these persist indefinitely is obviously problematic, and it's true that the vast, vast majority of collateral consequences are indefinite and will follow people, follow workers, throughout their career.

[Slide 15 — Employment-related consequences are triggered by a broad variety of offenses not necessarily related to the job or license]

So, we sort of looked at how they work on a functional level. Now, this slide here it kind of talks a little bit about what specific types of offenses give rise to these barriers.

Overwhelmingly across the country, if you have a felony, you are more likely to be subject to a collateral consequence than any other type of offense. What you're seeing here is the breakdown of kind of key offense categories, and the percentage of all of the employment-related consequences in the NICCC that are triggered by that category. So, you can see 50 percent of all of the barriers cataloged in that inventory are going to be triggered by any felony at all.

Below that you have crimes involving fraud. Below that you have any crime, at 23 percent, and so this is any felony, or any misdemeanor, could be disqualifying.

One thing to note when you look at this, just note here, is that the numbers you'll see exceed 100 percent, and that's because different collateral consequences can be triggered by more than one category of crime.

And, of course, you'll note that some of these categories are incredibly broad. As I said, any felony means any felony at all, and that includes a vast array of conduct with no real clear through-line. And many of which will have no relationship at all to a particular job or licensed activity.

[Slide 16 — Considerations for policymakers]

So that's the kind of brief overview of how collateral consequences operate and their general scope, but what are the specific policy implications of those barriers to work and what can policymakers do to mitigate their unwanted effects?

The following considerations and recommendations are all based on best practices that have emerged from the many states that have tackled the issues in recent years. The first is to limit mandatory and indefinite collateral consequences. And that's a fairly simple idea and concept, but it often requires policymakers to identify, analyze, and revise the hundreds of mandatory collateral consequences that are present in each state.

Now, many states have taken a much broader approach with respect to licensing barriers in particular, and they've created general laws that override all pre-existing mandatory barriers. So, this is something that a general law would say, "Notwithstanding any other provision of law, a conviction shall not be solely a barrier to licensure," for example.

A number of states have also imposed broadly applicable limitations on the age of conviction that may be considered in the licensing context. Often these will say things like, "A licensing body shall not consider any conviction of an applicant that is more than seven years old," for example.

[Slide 17 — Considerations for policymakers]

Now, although discretionary consequences are better suited to providing fair outcomes than mandatory ones, they can be problematic when they're not accompanied by standards for how each worker and his

or her conviction must be evaluated, which can lead to inconsistent outcomes to overbroad exclusions, and as we'll talk about a little bit more on the next slide, it can deter eligible workers from pursuing jobs in certain fields and industries.

However, states have formed a general consensus on how to better tailor discretion in a way that both increases access to work and continues to protect public safety. And these are sort of the nuts and bolts of those best practices here that aim to promote fairness, consistency, and transparency with respect to discretionary collateral consequences.

The first key point is that decision makers should be required to give individualized consideration to the relationship between a person's conviction and the job or the license that they're applying for.

The next kind of step of that evaluation is, well, how do you determine what that relationship is?" And many, many states now have implemented laws that require decision makers to consider relevant factors of a person's conviction and of a person's experience, such as time since conviction, the nature of the offense, evidence of rehabilitation, and other relevant factors.

Another key component of this, when you put these standards in place, is states have required decision makers to put in writing the reasons that a person is rejected due to criminal history, and often requires decision makers to reference each of these individual factors. That gives a person who was unjustly disqualified a record upon which to seek an appeal, but it also creates an enforcement mechanism. If a licensing body or an employer doesn't walk through those individual steps, they can't then document those steps provided so it ensures that the process is being followed at every step.

[Slide 18 — Considerations for policymakers]

So, even though discretionary consequences don't automatically disqualify workers with convictions, they can have the effect of discouraging them from even seeking work in certain fields, and this is particularly true when the standards that guide consideration of applicant criminal history are unclear or inaccessible to workers.

So, consider a worker with a conviction who's considering beginning training or educational programs that would qualify them for employment or licensure in a certain job. If that worker's conviction would subject them to a discretionary disqualification from employment or licensure, does it make sense for them to invest the time and money into pursuing the qualifications for the job without some certainty about whether their conviction, will, in fact, be disqualifying when they're finally prepared and qualified to file an application for the job or for that license?

Discretionary consequences can introduce a significant element of risk into the equation that can deter workers from seeking training, education, or work, even if they would not automatically be disqualified. And so, a number of states have recognized this and taken steps to mitigate the potential deterrent impact of the discretionary consequences.

The first best practice that we see emerging from the states is to clearly state in licensing and employment application materials that a person with a conviction will not necessarily be disqualified, and to ensure the materials clearly explained how convictions will factor into the decision-making. That way, people can proceed through the process armed with the information that they need to make informed decisions about their career pathways, and about how to address their convictions, should they come up in the process.

Another best practice is to prohibit applications and interviewers from inquiring about convictions that decision-makers are not authorized to consider. So, you can imagine if an application for perhaps the barber's license asks about all convictions, that could have a deterrent effect upon a person with any number of convictions, even those that are not actually going to be considered, or not authorized to be considered by the barbering board, for example.

Finally, and this is relatively novel, but it has caught on in a number of states recently, is to create a process whereby prospective licensees can seek a pre-application determination on whether their criminal history will disqualify them. So, what these laws do is essentially say, if you have a conviction and you'd like to get licensure, before you go to school, before you invest that time and money, you can ask the licensing body to review your criminal history and tell you now whether that criminal history will disqualify you. Then you can proceed, you know, assuming that you get a notice that it will not be disqualifying, you can proceed through your education, through all of your training with the assurance that you will be qualified for licensure, assuming that you meet all of the other qualifications, when it is time to apply.

[Slide 19 — Considerations for policymakers]

Employment-related collateral consequences are only justified insofar as they protect legitimate public safety concerns. They're not punishment, they're not part of a criminal sentence, they are civil laws created to protect public safety and encourage public safety.

However, the scope of offenses that trigger them suggest that they're rarely narrowly tailored to address those public safety concerns and may result in the exclusion of workers who pose no risk to public safety. And this goes back to looking at the 50 percent of employment-related consequences that can be triggered by any felony at all.

Clearly, within any given field or industry, there will be a large number of felony offenses that actually aren't related. So, states have found ways to deal with this, and it really is a detailed process for the most part that requires evaluating which specific types of offenses are problematic or pose public safety issues in the context of a particular field of employment.

So, states have eliminated from individual consequences any triggering offenses that don't implicate clear, increased risk to public safety.

Where appropriate many states have prohibited consideration of specific low-level convictions or classes of convictions—things like nonviolent misdemeanors, for example—that are unlikely to suggest significant public safety concerns. They've also gone about eliminating the use of broad and vaguely defined categories of triggering offenses, such as crimes and moral turpitude or offenses evidencing a lack of good moral character.

These terms are very rarely defined in law and open the door for consideration practically an unlimited array of criminal conduct, most of which will not be related to a particular job or license.

[Slide 20 — Considerations for policymakers]

And then finally, states have taken strides to expand the availability and effect of relief mechanisms. When we talk about relief mechanisms, the most common that people are familiar with are things like expungement and sealing that do away with a person's criminal record, but there are also other kinds of

more narrow-in-their-effect types of relief mechanisms—things like certificates of relief that can be issued by a court to exempt a person from a disqualification that they would otherwise be subject to.

So, states have, in recent years, created or expanded the availability of these mechanisms, but they've also, where they already exist, taken steps to ensure that they were effective at mitigating the impact of collateral consequences, and this is particularly true when we talk about expungement and sealing.

Often, without more, these mechanisms simply shield the person's criminal record from view, but they don't necessarily, unless the law says that this is their effect, prohibit licensing bodies, employers, or others from considering those convictions. And, as we know, with the ease of access to information now, just because something is unavailable to be pulled out a courthouse that doesn't mean that it is entirely out of public view via things like Google, third-party background providers, and the like, so it's increasingly important that these laws don't just hide the record, but actually prevent it from being held against the person.

So that's a general overview of collateral consequences that affect employment, how they operate in the states, and what states have been doing to address those problems. Now, I'll turn it back over to Chidi.

Chidi Umez: Great. Thank you so much, Josh for laying out those elements of the employment-related collateral consequences. And, as you said, a lot of this work we've talked about considerations for policymakers, and so at this time we're going to talk to Nate Brown from the Colorado Department of Regulatory Agencies, or DORA for short.

[Slide 21 — Considerations for policymakers]

And as part of the Justice Center's work in this area, we are able to provide technical assistance to states around looking at barriers and looking at ways to reduce barriers to licensing, particularly for people with criminal convictions, and one of those states that we were able to work with was Colorado.

[Slide share stops and screen shows two people in conversation.]

And so just want to say thanks for joining us today, Nate, and just talking to us a little bit about your experience with us as we worked through, thinking about Colorado and DORA, thinking about ways to reduce barriers to licensing for people with criminal convictions.

So, the first question is that if you can just tell us a little bit about your work with DORA and how DORA fits into the overall licensing structure in Colorado?

Nate Brown: Sure, of course.

Thank you for having me today. This is a wonderful opportunity to get out in front of folks and share what Colorado has been doing in this space, so appreciate the opportunity.

So yeah, like you said at the beginning, I am a policy advisor for the Division of Professions and Occupations within DORA. DORA is the Department of Regulatory Agencies. So, DORA as a whole, as the name suggests, is the main agency in Colorado charged with regulating various aspects of the state economy and different industries. So, within DORA there are, I think, 10 or 11 different divisions. DPO, where I work, is one of them, but there are the Public Utilities Commission within DORA, the Division of Real Estate, Division of Insurance, Banking, the Division of Civil Rights, which handles employment discrimination cases, that sort of thing.

Looking closer at my division, the Division of Professions and Occupations (we usually just call it DPO) we license most of the professions that require a license in the state of Colorado, so anything from doctors to accountants to electricians and plumbers, nurses, acupuncturists, all sort of those basic jobs that typically require a license around the country, barbers and cosmetologists, that sort of thing.

A couple that we don't license, that often are bit of confusion for some folks: we don't license lawyers (lawyers are licensed through the state supreme court), teachers ([licensed through] the Department of Education), and then the other big one are EMTs/EMS [emergency medical services]; they are licensed through our state public health agency. But for the most part, if you need a license to do a job in the state of Colorado, you'll have to come through DPO at some point.

Another thing that we don't regulate that often is mistaken is the hospitals themselves. So, where are the doctors work, where the nurses work, we don't license those actual facilities, but everybody that works inside them we license. That's our agency in a nutshell.

Chidi Umez: Thank you for that, and so as I mentioned, the Justice Center what we do a lot of times is we help to provide technical assistance to states as they look through their barriers to work, particularly in the licensing space. And like I said, we were able to work with you, with DPO, with DORA, during the process, and so can you just tell us a little bit about why DPO/DORA decided to take up this issue of reducing barriers to license people with criminal records?

Nate Brown: Sure, so it all started with what was called the Multi-state Occupational Licensing Consortium, which Colorado was a member of or a part of for a few years. I was actually hired initially to be the lead policy analyst for that particular project. And it was a group of Colorado, a bunch of other states, 15 or so other states, along with CSG and NCSL [National Conference of State Legislatures], some other national think tanks, particularly that was put together to look at the barriers to licensure.

That particular project looked at several distinct populations that tend to be impacted more than others, by those sorts of barriers, and the formerly incarcerated—what we refer to typically as the rehabilitative workforce—they were part of that project. So that's why we started really to look at that, and just sort of the larger picture getting back to what Josh said earlier, there's just sort of a growing sense in Colorado and around the country of the basic unfairness of a lot of those kinds of barriers, particularly when it comes to how certain kinds of criminal convictions are treated especially.

Sort of building off of that there's, again, just kind of a growing awareness of a lack of utility for that kind of information as it pertains to someone's qualifications or competency to perform a particular job. Now, of course, if you really sit down and think about it, you can find instances where something that somebody has done in their past could indicate something about their qualifications to perform a particular job, but like Josh said earlier, those tend to be the exceptions rather than the rule.

So, just sort of a general growing sense of, like I said, the unfairness of so much of how we treat folks after they are incarcerated, and holding a job is one of those factors that really helps people keep out of the criminal justice system, and many of the jobs that we license are those really good, high-paying, stable jobs. So, just almost a moral stance for the state.

Chidi Umez: That's great, thank you. So, you mentioned this multi-state consortium effort, and that was part of the impetus for going into this process of addressing licensure for the rehabilitated community,

and so as part of that you also mentioned, DPO and DORA and the many categories of licenses and types of licenses that you guys regulate. So, for this project, with having a region, all of the different areas and different industries, which licenses did DPO and DORA choose to focus on for this project in particular?

Nate Brown: That's a very good question because I failed to mention it. We regulate I think over 50 different professions, so quite a bit to choose from there. Again, the professions that we chose to initially look at were based on that consortium work. We decided to look initially at barbers, cosmetologists, electricians, plumbers, and addiction counselors, and—part of that decision was made before I was brought on board—but part of it was due to sort of the high demand for those particular professions in the state: especially plumbers and electricians with the booming housing market in Colorado, lots of construction going on; addiction counselors—Colorado has been hit particularly hard by the opioid epidemic, for example; and then as far as barbers and cosmetologists [go], that was chosen a) [because of] high demand, but also those are opportunities that folks who are in prison in Colorado are able to actually get training in some of those fields, Barbers, cosmetologists, and electricians, in particular.

So, they are, at least as far as the rehabilitative workforce goes, those are opportunities that folks have while in prison to build their skills, so we wanted to focus on sort of those, I hate to say, low-hanging fruit, but that was kind of how it was viewed. There were lots of really good opportunities to reduce barriers in those particular professions.

Chidi Umez: Great, and then thinking about how to then go through the process, like I said I know Josh and I worked with you in thinking about how to reduce the barriers, particularly in the barber/cosmetology licensure, like you said, especially because those were skills and credentials that people could attain while in prison in Colorado.

And so, can you talk to us a little bit about what were some of the goals going into this work of trying to organize rules or looking at the structure of the regulation, and how did those goals fit into the context as we're talking about reentry for rehabilitated citizens or returning citizens? Can you talk to us a little bit about that?

Nate Brown: So, it really gets back to that overall goal of ours to just kind of reduce barriers generally across the board, and when you dig down into those collateral consequences that we have on our statutes and in our rules, one of the main goals, at least from my perspective as lead analyst on this project, was to in some way highlight the good work that Colorado has already done in this area. Colorado was one of the leaders in implementing statutes that do away with sort of those big, good moral character terms.

We have a statute on the books currently that requires regulators, the boards, to look at sort of the nature of the conviction and know whether or not there is a nexus between the conviction and occupation that the person will perform with the license.

They have to look at mitigating factors and the time since conviction. That's all on the books currently in Colorado law, but it did seem like when I started to especially sit down and speak with our program managers and talk to the boards themselves, that many times there was a little bit of surprise that was actually a law in Colorado. But part of my work was simply to just sort of spread the word about the opportunities that Colorado already affords folks who are coming out of the prison system.

And a lot of it too kind of gets to that cultural stigma that you see that Josh highlighted, right? Both externally, as people's perceptions of folks who have been in the prison system, and then also their own self-image too, right? So often people who have been incarcerated, for whatever reason, have been given the message that, if you have a felony on your record, you probably shouldn't even try to become an electrician or a nurse or what have you. So, by putting what is already in statute into board policy, part of that was to clarify and sort of flesh out what is already in statute. The statute tends to be a little vague, as statutes tend to be. So, part of the goal of the policy was to sort of make that a little bit more robust. Then coming at it from the other side, just really trying to change the culture of the boards in terms of how they view folks with criminal records, how they think about those particular factors that they have to look at, really starting to get the board members to think about the true connection, and often lack of connection, between a conviction and somebody's duty to the licensee.

And then it's just the overall trying to reduce that stigma around criminal conviction and getting folks to take advantage of those second chances. So those were really—especially when it comes to sort of the collateral consequences area—those were our big overarching goals. Now, there's some other things that we would love to pursue that would require some statutory change. Those are things that obviously we can't do that our own, we need the legislature to step in at some points, but Colorado has done a lot in this area, and part of it was just sort of highlighting that work that's already been done.

Chidi Umez: Great, thank you. So, you talked about how a lot of it was about communication and communicating both to the boards and to those who are returning citizens who would like to pursue these licenses but aren't sure whether or not their convictions would be a hindrance. And so, I can imagine that process with even the communication or reducing stigma could not have been...I can imagine there were some challenges with that, but that would also require a lot of buy-in from various stakeholders. So, can you just talk to us a little bit about what were some key messages that you used? In some areas there's some folks who may not understand what was going on, or what we were doing, so can you talk to us about some of the key messages that you were able to use to get some stakeholder buy-in?

Nate Brown: Oh sure. Yeah, like you said, that process has been a huge part of what we've done. Getting back to what I was just saying; that education piece, public education, public outreach, in some cases, can make all the difference in terms of whether or not somebody decides to send an application or not. So, it's a huge part of what we've done.

Some of the forums that we've used as part of our work with the consortium—we had set up committees/subcommittees, we called them. Basically, just our own sort of internal think tanks that we put together, and we invited people that we viewed as key stakeholders in each of those population areas. We were looking with working with immigration, immigrant populations in Colorado, looking at folks coming out of the military, and then people coming out of the prison system. And so, we already had sort of a built-in stakeholder outreach mechanism there. Now, those were relatively small; they tended to be the sort of those key stakeholders, but that was a good first step for us to be able to engage with the impacted communities. And that's where we got a lot of our messaging, a lot of the things that we have targeted, in terms of the changes that we've made, have come from those committees, so they've been hugely helpful.

We've also hosted several large, broader community town halls, and that's where we really started to get a lot of the buy-in from folks who have run into those barriers. That's where we really started to interact with the people who have been denied because of their criminal histories. So, we really started

to craft our message that way as well. Some of those key messages, the messages themselves that seemed to resonate have been highlighting that key that connection between recidivism and holding a job. That seems to be something that really resonates with folks, particularly with the boards; they really sort of tied into that. And then also that connection, highlighting that connection between, or lack of connection between, past criminal conviction and somebody's competency moving forward...if you just start to think about any particular conviction you can think of, most of the time they will have nothing to do with the ability of somebody to competently cut somebody's hair or pull wire through a wall, or what have you. There's very few instances that I can think of—I've thought a lot about this— where there is sort of a direct connection between a professional's duties and something they've done in their past, criminal or otherwise.

Those seem to be the key messages they really kind of work. Now, I will say that we were often working with very receptive audiences as well, so that helped, but those seems to be the sort of those key points that really helped drive the point home.

Chidi Umez: Great, thank you. And we've seen those messages as well resonate with folks across the country. You mentioned that most of the time you were talking to folks who are pretty receptive, but that couldn't have been everyone I would imagine. And so, can you talk to us about some of those challenges that you did have going through this process?

Nate Brown: Sure, so like I said we've had a fairly receptive audience. The make-up of our state legislature at this point tends to be much more focused on these issues. The boards that we've worked with so far have basically told us that we're already doing this, so a lot of the times it's been a very receptive audience.

I will say that sort of one of the challenges that I ran into personally, and it kind of highlights the work I've been doing, is that in some cases, it can be hard, and I don't think this is just a Colorado issue or DPO issue, I think this is, you look at this across the country, it can be sometimes very difficult to find out what the law actually is and what the rules actually say. I'm blessed that I have the licensing staff in DPO to be able to go and talk to. Most people don't have that opportunity, or if they do it's through some faceless email inbox or something. So that was one thing that was just sort of a challenge to me, especially just starting out, was just sort of getting my head around all of the different various impacts that a criminal conviction can have, that sort of thing.

But again, it kind of highlights the work I've been doing in terms of putting all of that in an easily accessible form, and part of the policy that we've been implementing now with the plumbing and electrical boards was part of that...sort of putting it all in a row, getting it in one spot where you can easily walk through 'these are the factors that the board will look at' and that sort of thing. So, I would say that was one challenge that I ran into.

And then a challenge that sort of came from stakeholders, I would say, is that there is a very real feeling in the community that the statute that we have on the books (20-45-101) just doesn't go quite far enough. There's a sense that, 'yes, that's a good first step', there's these factors that they need to look at, the regulator needs to look at, but it doesn't really say that there's anything that they necessarily need to do with that information. They can take all that information into account, look at those factors, and still come to the same conclusion that they're disqualified.

It requires a regulator to look past that mere fact of conviction, which is a good thing in my opinion, but there is a sense that it doesn't quite go as fairly far enough, and that kind of gets back to my previous statement about, you know, there are things that we would love to do that we just can't do because the legislature hasn't told us that we can yet, some of the pre-qualification stuff. We would love to see that, but we just don't have the statutory authority to do that kind of thing quite yet. So, still definitely some room for improvement, for sure.

Chidi Umez: Great. I'm glad you identified that and also spoke about the challenges, just the obscurity of finding out how the collateral consequences or where they are and putting them all together in a state. Because, as Josh mentioned, and I think you mentioned that earlier in the presentation, about how part of this work is really just finding out about the collateral consequences in each state.

And so, the good thing about the NICCC is that at least some of that surface-level work has been done for each state, and then we have these playbooks and that was part of our work with BJA, was to try to curate this information in a way that states can least have a base-level of knowing what's going on in their state and how these employment collateral consequences are operating in their state at least on a broad level.

I know the regulations are a whole 'nother, the rules and the regulations are a whole 'nother beast, and they're a whole 'nother part of the work, but at least, on a broad level, that work and that information can be available through the database. And then so just to round it out, can you just talk about some lessons learned? Josh went through some considerations for policymakers, and some of those considerations you've already mentioned about what we've been talking to states about, about how they can take their statutes or their regulations a little further.

And so, can you just talk about some of the lessons you've learned going through this process and what are some considerations that you would tell other policymakers in other states about this?

Nate Brown: Sure. Yeah, that's a great question. I would say that one of the lessons that I've learned is that sometimes the most impactful thing you can do isn't necessarily the biggest thing you can do. Just given the politics in your states or what have you, sometimes, you know...like, we've focused so much on the education piece of things, and that has seemingly made a big difference for people. Just doing that has made a difference. Now, we haven't discounted going after those big legislative changes, of course, sometimes you do need to go down that road, but also, don't just pigeonhole yourself down that particular path if there are other clinical, smaller opportunities that might be just as impactful. Kind of along the same lines, I think you just kind of keep an open mind and think outside the box a little bit. There's a lot of different ways of looking at these issues, and I would say reach out to other states. The other states are doing a lot in this area, you can learn a lot. We've learned a lot from Utah and California and Maryland and Vermont. Leverage partnerships that you have with CSG, say, NCSL, other outside think tanks.

I think those are sort of the biggest takeaways I would have. In some ways it's taking advantage of that ... sort of a tide change or a sea change in American culture right now, where we're starting to grapple with the effects of mass incarceration and what that really means for people and for communities that they live in. So, I think if your state has sort of the political appetite to take care of this kind of thing, I think now is a good time to start, because I think there is a lot of appetite for making these kinds of fairness, equity-based changes.

And just sort of opening up the market to more people to work in a good-paying job. These are jobs that are in high demand. We need as many electricians as we can get, we need as many nurse aides as we can get, so ... don't hang your hat on what you might perceive as sort of old cultural stereotypes about folks that have been incarcerated.

Chidi Umez: Great, well said—thank you so much.

I just want to say thank you again, Nate, for joining us. This was a great conversation. I had some questions prepared but you offered so much more beyond the questions, so I just want to thank you again for being a part of this presentation and for joining our conversation today.

Nate Brown: Thank you very much.

Chidi Umez: No problem. Thanks also to Josh for laying out the elements of the operation of employment-related collateral consequences.

[Slide 22 — Considerations for policymakers]

And you can read more about these employment-related collateral consequences. CSG Justice Center, in partnership with Bureau of Justice Assistance, developed a report with the same name and title, as this presentation “After the Sentence, More Consequences: A National Report of Barriers to Work.”

In that, it has a lot of the elements in more detail of what Josh presented today on your slides, and as a companion piece to that report we also developed state pages for all 50 states that identify the employment-related collateral consequences in each state. As I was talking to Nate about, it’s really just a broad overview stemmed from the National Inventory of Collateral Consequences of Conviction, giving the data about what's going on in your state.

[Slide 23 — National Inventory of Collateral Consequences of Conviction (NICCC)]

And here you can have more information on the NICCC using that link that's there provided and also available under the NRRC website.

[Slide 22 — Considerations for policymakers]

We also have another resource that we at the Justice Center developed in partnership with Arnold Ventures, which is a 50-state playbook for each state that outlines all of those considerations for policymakers that Josh mentioned earlier, but it goes through each state and each consideration looking at some ways that states can work to reduce barriers to work, particularly in the licensing context for people with criminal records. Those resources can be found, using the website links that are provided on the screen and also through the CSG Justice Center website as well.

[Slide 24 — www.NationalReentryResourceCenter.org]

So, I want to say thank you for joining us for this presentation.

The National Reentry Resource Center, again, is your source for the full schedule of events and links and resources for Reentry Week. So please visit the NRRC at www.nationalreentryresourcecenter.org.

[Slide 25 — Track News and Updates on Social Media]

And you can join the conversation by following #reentrymatters, #reentryweek, and #reentryweek21 on social media platforms like Twitter, Instagram, Facebook, and LinkedIn.

[Slide 26 — Thank You!]

And you can sign up for the NRRC newsletter, and if you have any questions about Reentry Week or the NICCC, please reach out to the NRRC via email.

And for more information on this presentation, in particular, you can contact me at cumez@csg.org. Thank you, again, for joining us, and I hope you join the conversation as we highlight Second Chance Month and Reentry Week. Thank you.