

## **Confronting the Collateral Consequences of a Criminal Conviction: A Special Challenge for Social Work With Offenders**

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*Millions of former offenders—often members of racial/ethnic minority or other disenfranchised groups—experience restrictions on their legal and civil rights as the collateral consequences of their criminal conviction. It is critical for the social workers and other human service professionals who frequently interface with this population to understand these collateral consequences to effectively serve their clients with criminal convictions. This exploratory study examined the impact these collateral consequences may have on social work practice with offenders. We assessed practitioners' awareness, knowledge, and experiences with the collateral consequences of clients' criminal convictions and practitioner efforts as "agents of restoration" to pursue statutorily available court-ordered expungements of their clients' criminal conviction records. Findings revealed that practitioners lacked awareness of collateral consequences, their application, and expungement. Recommendations to enhance social work practitioners' ability to address and reduce the far-reaching collateral consequences of incurring a criminal conviction are discussed.*

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Former offenders experience statutory and regulatory restrictions of their civil and legal rights, also known as the collateral consequences of conviction (Archer & Williams, 2006; Burton, Travis, & Cullen, 1987; Ewald, 2012; Olivares, Burton, & Cullen, 1996). These “blanket” restrictions are routinely applied to rights such as voting, offender registration, professional licensure, serving as a juror obtaining public employment, public assistance and housing, and even retaining parental rights (Chin, 2007; Love, 2006; Mule & Yavinsky, 2006; Owens & Smith, 2012; Truman, 2003). Unless expunged (i.e., restored, sealed, or pardoned) from the offender’s official record, these collateral consequences persist over the individual’s life course, limiting access to and participation in society in critical ways (Burton, Travis, & Cullen, 1988; Hemmens, Miller, Burton, & Milner, 2002; Radice, 2012; Sahl, 2013; Silva, 2010; Uggen & Manza, 2002).

Estimates of the number of convicted persons in the United States who could incur collateral consequences are staggering. Currently, between 65 and 100 million people in the U.S. population have been arrested (and/or convicted) of a criminal offense (Alexander, 2010; Love & Chin, 2010) and an estimated 16 million of these are felons (Binnall, 2010). Moreover, at least 7.5 million people are under some form of criminal justice supervision and nearly all of these offenders eventually “return” to their communities (Travis, Robinson, & Soloman, 2002). Given these growing numbers, the increased use of collateral consequences has led some scholars to characterize these restrictions attached to official records as “exploitations” against the convicted, their families, and communities (Pinard, 2010a, p. 461).

The issue of collateral consequences is particularly relevant for social work practitioners for several reasons. First, offenders from vulnerable and disadvantaged populations—those whom social workers have historically aided (Barker & Branson, 1993; Young & LoMonaco, 2001)—are disproportionately impacted by these detrimental policies. For example, the “war on drugs” mandatory minimum sentencing and mass imprisonment policies have disproportionately concentrated these collateral consequences among specific strata of the U.S. population, particularly in disadvantaged communities of color (Brisman, 2004; Clear, 2007; Jacobs, 2006; Segall, 2010; Wildeman, 2010). This structural concentration and disenfranchisement of former offenders resulting from such policies has been reinforced by the interaction between collateral consequences of conviction and race, class, and community (Alexander, 2010; Brisman, 2004; Petersilia, 2003; Uggen & Manza, 2002).

Second, social workers interface with this population in each of the settings where collateral consequences occur: housing, government programs, employment, and family services. This pattern is apt to continue, given that 18.6% of African American males are now likely to be incarcerated in their lifetime, and these “eventual” former offenders will endure the various collateral consequences associated with their criminal convictions (Cox,

2010; Finzen, 2005; Wheelock, 2005). With so many clients facing numerous collateral consequences, social work practitioners face an increasing imperative to be aware of the extent of and the impact that these restrictions impose on their clients' reentry efforts. Furthermore, social work practitioners need to have knowledge of the expungement process to assist in the restoration of the legal and civil privileges denied to their clients due to their felony conviction.

This exploratory study assessed social work practitioners' knowledge, awareness, and experiences with the criminal court process and the collateral consequences of convicted felons. Specifically, practitioners were asked how collateral consequences have impacted practice outcomes. In addition, practitioners' knowledge of and their actual assistance in the expungement process were explored.

### THE CHALLENGE OF COLLATERAL CONSEQUENCES: COLLATERAL CONSEQUENCES AS THREATS TO SUCCESSFUL OFFENDER REENTRY

The United Kingdom's Ministry of Justice has identified nine pathways to reoffending—attitudes and behavior, accommodation, drugs and alcohol, children and families, health, education and employment, finance and debt, abuse, and prostitution—that former offenders must overcome to achieve successful reentry. However, many of these pathways are threatened either directly or indirectly by a criminal record, with the collateral consequences associated with a criminal record becoming a mechanism of cumulative disadvantage for former offenders trying to avoid a return to criminal behavior (Dallaire & Wilson, 2010; Freudenburg, Daniels, Crum, Perkins, & Richie, 2005; Leopper, 2006; Pager, 2003; Phillips, Leathers, & Erkanli, 2009; Schneider, 2010). Former offenders often directly encounter legally permissible forms of discrimination (based on conviction status) in private employment, housing from landlords, choice of residential location in communities, educational access, reinstatement of familial rights, professional licensure, and denied participation in civic activities (Conner & Tewksbury, 2011; Gunnison & Helfgott, 2011; Henry & Jacobs, 2007; Levenson, 2008; Mustaine, Tewksbury, & Stengel, 2006; Pager, 2007; Tewksbury & Mustaine, 2007). In addition to statutorily imposed restrictions (i.e., invisible punishments), conviction carries many forms of social stigma and discrimination for ex-offenders that indirectly further the hardships associated with the transition from prison to the community. The impact of stigma and feelings of perpetuated punishment beyond their served sentence may lead to negative attitudes toward the criminal justice system and future offending (including self-medicating with alcohol and other drugs) that reduce the chances of successful reentry (Benson, 1984; Benson, Alarid, Burton, & Cullen, 2011; Burton 1990; Fox, 2010; Gunnison & Helfgott,

2011; Jacobs, 2012; Mauer, 2004; Mauer & Chesney-Lind, 2002; Uggen, Manza, & Thompson, 2006). Given the tenuous and contingent influence that these pathways to reoffending may hold, it is thus crucial that social workers understand the impact of collateral consequences on the reentry efforts of the offenders they assist.

## EFFORTS TO ADDRESS THE COLLATERAL CONSEQUENCES OF CONVICTION

The harsh impacts of collateral consequences have not gone unnoticed by scholars, policymakers, and practitioners.<sup>1</sup> Efforts to eliminate or curb the collateral consequences of conviction have included proposed legislative “second chance” acts (Pogorselski, Wolff, Pan, & Blitz, 2005), the *Second Chance for Ex-Offenders Act of 2009* (Silva, 2010), the *Uniform Collateral Consequences of Conviction Act* (see Love & Chin, 2010), and the *American Bar Association Standards for Criminal Justice* to ensure “competent lawyering” practices of informing and alerting offenders (including juvenile offenders) of the consequences of their felony guilty plea and conviction (Love & Chin, 2010; Pinard, 2005, 2010b). In addition, models have been proposed for attorneys’ “holistic representation” to aid offenders with the collateral consequences of conviction and reentry challenges (Steinberg, 2006).

This system-wide interest and recognition of collateral consequences has precipitated examining court officials’ (e.g., defense lawyers, prosecutors, probation officers, and judges) duties, awareness, and understanding of the collateral consequences of conviction for defendants throughout the criminal court and sentencing process (Brown, 2011; Christian, 2011; Ewald, 2012; Joy & McMunigal, 2010; Larkin, 2011). Other scholars have investigated the ways in which collateral consequences of conviction threaten the acquisition of basic needs, such as housing and employment, and ways to lessen barriers for ex-offenders (Gunnison & Helfgott, 2011). For example, Henry and Jacobs (2007) called attention to Minnesota’s “ban the box” initiative, whereby job applicants do not initially admit to past criminal convictions on their employment application. The goal is to lessen the stigma against former offenders by potential employers who would otherwise “remove” applicants indicating “self-disclosed” convictions without considering other relevant job information.

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<sup>1</sup>There is promise in the “push back” effort against collateral consequences. It should be noted that the first major victory against the collateral consequences of a conviction was rendered by the Supreme Court’s *Padilla v. Kentucky* decision (see Love & Chin, 2010). Essentially, the Court ruled that defense counsel must inform immigrant defendants of potential deportation (which was recognized by the Court as being a collateral consequence of a guilty plea and criminal conviction). Although the decision does not apply to all criminal defendants (see also Larkin, 2011), commentators continue to watch this new development with optimism; perhaps the first step toward the Court recognizing the enormous burden and restrictiveness of collateral consequences which attach to guilty pleas and convictions.

## CONFRONTING COLLATERAL CONSEQUENCES: A CALL TO SOCIAL WORKERS

The social work profession has long sought to improve the lives of people, communities, and social institutions including former offenders (McNeill, Batchelor, Burnett, & Knox, 2005; Roberts & Brownell, 1999; van Wormer & Boes, 1998). In fact, social work with offenders has a substantial history of efforts in forensic social work (Barker & Branson, 1993; Brownell & Roberts, 2002), restorative justice and mediation (Beck, Kropf, & Leonard, 2010; Galaway, 1988; Umbreit, 1989), and policymaking and advocacy work with offenders. Despite these efforts, several scholars have described social work's eroding interest in working with offender populations as being due to the lack of criminal justice coursework and fieldwork with offenders in social work curricula (Hartley & Petrucci, 2004; Miller, 2010; van Wormer & Boes, 1998; Young & LoMonaco, 2001).

Social workers are positioned to aid reentry and contend with collateral consequences in several ways, including assisting former offenders in the areas of housing, employment, public assistance, filing government forms, advocacy, and treatment (McNeill et al., 2005; Rothstein, 2006). Forensic social workers may assist attorneys involved in legal practice, help offenders deal with civil disabilities, or help offenders apply for the restoration of lost civil rights (when statutorily available) upon reentry back to their communities (Rothstein, 2006). Given that social workers play a critical role in helping offenders navigate myriad legal obstacles that hinder successful reentry back into the community (Barker & Branson, 1993; Brustin, 2002; Galowitz, 1999), more attention is needed to enhance social work's involvement in confronting the debilitating effects of the collateral consequences of conviction (Galaway, 1988; McNeill et al., 2005; Thompson, 2011; van Wormer, 1999). Pinard's (2005) "revisionist centered approach" whereby lawyers lead the way with reentry and "remove" the consequences of conviction by including social workers in the network of helpers to assist with reintegration offers one such roadmap for social work action.

### NEED FOR THE PRESENT STUDY

Despite the increased recognition of collateral consequences' harsh impacts on vulnerable populations, little is known about the ways in which social work practitioners contend with collateral consequences in the lives of their offender clients. This exploratory study investigated practitioners' experiences with offender clients and their perceptions of the impact of collateral consequences. Specifically, we explore practitioners' experiences with the collateral consequences of a conviction in their work with offender clients, including awareness of legal and civil restrictions, associated rights and

privileges, and the potential impact of such restrictions. This study addresses the following research questions: (a) How do collateral consequences of conviction impact social work practice with former offenders? (b) To what extent are practitioners knowledgeable about the existence and extent of collateral consequences? (c) Which collateral consequences do practitioners report as the most commonly encountered by offender clients? (d) How do practitioners feel (ideologically) about rights being restricted for offenders? (e) How involved (and knowledgeable of processes) are practitioners in the restoration of civil and legal rights of offender clients? and (f) To what extent do practitioners assist offenders with available expungement procedures in the courts to remove records of criminal conviction?

Given the timeliness of these issues, this article is significant in two ways. First, it contributes to a growing body of literature on the collateral consequences of conviction (generally). Second, it identifies challenges reported by members of the social work profession (specifically), whose work may involve helping offenders contend with the expungement of criminal records for successful reentry. We conclude with recommendations for social workers to serve as “agents of restoration,” pursuing court-ordered expungements for their offender clients when appropriate and available.<sup>2</sup>

## METHODS

This exploratory study surveys social workers and other social service professionals working with offender clients to examine how the collateral consequences of clients' conviction impact their employment, housing, and loss of friendships, family, and community opportunities. We assess how restrictions of these rights and opportunities shape practice outcomes and create hardship for their client offenders. For our investigation, collateral consequences of a criminal conviction are conceived as restrictive hardships (both statutory/formal and stigmatizing/informal) that work to limit opportunities for client offenders, challenge direct practice success, and threaten a primary goal of rehabilitation for ex-offenders (Burton, Dunaway, & Kopache, 1993; Burton, Ju, Dunaway, & Wolfe, 1991; Burton, Latessa, & Barker, 1992; Cullen & Gilbert, 2012; Cullen & Jonson, 2011; Cullen, Latessa, Burton, & Lombardo, 1993; Cullen, Skovron, Scott, & Burton, 1990).

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<sup>2</sup>A number of states allow for expungement of criminal records and convictions in varying degrees (see Olivares et al., 1997) and the jurisdiction of this study permits both statutory and judicial expungements (see Boraas, 2010; Davis, 2009) with various limits and conditions (e.g., age of offenders, offense types, extent of sealing records). In the context of serving as “agents of restoration,” social workers may work with legal clinic attorneys pursuing these court ordered expungements without counsel.

## Data Collection

In August 2011, we surveyed 39 social workers and human services professionals (i.e., individuals from a diverse range of disciplines whose work aims to improve client well-being and community functioning; Moffat, 2011) engaged in practice with former offenders. These practitioners were enrolled in a social work continuing education course (in a social work curriculum) on effective practice with offenders offered at a large Midwestern research university. Specifically, a two-page questionnaire was administered to participants before the course began, and all surveys were completed and returned within a 15-min period. All participants were informed that their involvement was voluntary and their identity would be anonymous. Of 39 potential respondents, 35 surveys were completed and returned to the researcher for our convenience sample of practitioners. For purposes of analysis, then, this survey administration resulted in a response rate of 88%.

The survey was designed to obtain demographic information, assess practitioner opinions of offenders' restricted civil and legal rights with Likert-type questions, and ask practitioners to indicate how offender clients' conviction and collateral consequences hurt practice outcomes. The survey also sought to probe practitioners' knowledge of the criminal courts, awareness of statutorily available expungement opportunities for their clients, and examine their involvement with clients as an "agent of restoration." We should note that our study is exploratory and an early effort to specifically examine the impact that collateral consequences of conviction has on effective correctional social work practice with offender clients.

## RESULTS

### Sample Characteristics

Of 35 social services practitioners completing our survey, 33 were female (94.3%) and 31 were White (88.6%). The mean age of respondents was 35.5 years, and the mean years of practice experience was 13.3 years (see Table 1). In terms of educational degree level, 19 possessed graduate degrees

**TABLE 1** Characteristics of the Sample ( $N=35$ )

Characteristics	<i>M</i> / <i>%</i>
Gender (% female)	94.3
Ethnicity (% White)	88.6
Age ( <i>M</i> )	35.5
Years of practice ( <i>M</i> )	13.3
Education (% with graduate degree)	57.1
Currently working with offender clients (% yes)	88.6
Nature of practice (% private agency)	60.0

and 16 held baccalaureate degrees. Among graduate level practitioners, 11 held the MSW and nine held Human Services or related degrees. Of the 16 baccalaureate level respondents, seven held the BSW and nine possessed Human Services or related degrees. Overall, nearly two-thirds of the sample reported either a social work degree or current enrollment in a social work program (18 had social work degrees, six were pursuing an MSW), with the remaining respondents holding degrees in other human service fields appropriate for practice with offenders (i.e., psychology, criminal justice, counseling and therapy, addictions counseling, and sociology). All respondents were enrolled in a continuing education program of social work courses and reported engaging in practice from a social work orientation.

With regard to respondents' current practice situation, 31 of 35 practitioners (88.6%) indicated that they were presently involved in practice with offender clients. The remaining respondents ( $n=4$ ) had either previously worked with offenders or were scheduled to begin work with offenders. Finally, nearly 60% ( $n=21$ ) of the sample reported their current practice as being located in non-profit and private agencies.

### Addressing the Collateral Consequences of Conviction in Practice

A primary purpose of this investigation is to qualitatively assess social workers' experiences with addressing the collateral consequences of a criminal conviction and to explore how restrictions placed on their offender clients may influence practice experiences. Thus, we asked respondents the following open-ended question:

“Collateral Consequences” are **statutory restrictions** (e.g., loss of rights such as public employment, housing, voting, jury service, parental, etc.) placed on offenders after conviction of a crime. Without using names (or specific identifiers), **briefly describe** an instance/event when the “collateral consequences” of a criminal conviction *limited the effectiveness* of your practice with a client who was an offender. Please describe in a **short paragraph below**.

Drawing from this question, results indicated that three-fourths of the practitioners in this sample (74.2%) had confronted the collateral consequences of conviction in practice with former offenders. As illustrated in Table 2, the type of collateral consequences most frequently described as limiting the effectiveness of practice were denials and restrictions on client offenders' housing and lost employment opportunities. To a lesser extent, practitioners reported their clients were challenged with lost parental rights and child custody, were denied educational opportunities, had restrictions on successful client placement within a medical treatment residential facility, were unable to obtain public assistance, lost adoption opportunities, and lost



**TABLE 2** Number of Practitioners Reporting Specific Types of Collateral Consequences

Collateral consequences	No. of practitioners
Housing restrictions/denials/ineligibility	13
Employment restriction/difficulty obtaining job	12
Loss of parental rights due to conviction	4
Denial of educational opportunity	2
Public assistance ineligibility	1
Denial of medical facility placement	1
Adoption denial	1
Lacked trust in offender client	1

Several practitioners reported both housing and employment restrictions simultaneously.

driving privileges as collateral consequences of a criminal conviction. For each collateral consequence reported, restricted rights or privileges appeared to influence practice outcomes for client offenders.

### In Their Own Words: Analyzing Statements from Practice Experiences

To better appreciate the richness and contextual aspects of practitioner experiences with clients' collateral consequences of conviction, we qualitatively assessed their statements. We obtained this information with responses from the aforementioned open-ended question: "briefly describe an instance/event when the 'collateral consequences' of a criminal conviction *limited the effectiveness* of your practice with a client who was an offender." Again, our goal was to shed light on the details of practice experiences with former offenders encountering invisible punishments as a result of their criminal convictions.

Analysis of practitioner statements reveals that the most prevalent and burdensome collateral consequences are being unable to obtain adequate housing and employment. One first-year practitioner described her client's progress as being hampered continually by "not being able to get housing or a job...[which limited his] desire to be effective after prison release." Another respondent described her clients' quandary: "he was looking for work...[and] after many months of looking found one job, but the people he worked with were not a good influence on him and he went back to [his] old ways... afterwards [he] couldn't find a job, no one would hire him without an address, [and] no one would rent to him without a job."

Several practitioners in our sample described how this perpetual "no job and no housing" cycle created hardships that made successful practice more challenging with offenders. One 20-year MSW social worker noted that the cycle of job loss, denials, and no housing options culminated in one of her clients responding with "continued drinking" to deal with these "stressors."

These lost opportunities also appeared to be the most detrimental to clients. One veteran social worker lamented that “the loss of work and housing have the greatest impact [when] not provided for.” Another Master’s level case manager reinforced her sentiments by describing a client’s destitution as simply being “unable to get adequate employment, thus impacting [his] ability to meet basic needs.” Given the plethora of employment and housing restrictions their clients face due to an ex-offender status, many practitioners noted the harmful impact of these restrictions on successful offender reentry and successful social work practice.

Perhaps one of the more pernicious collateral consequences of conviction reported among our sample of practitioners was the unexpected intrusion into a client’s family and relationships with their children in the way of lost parental rights and custody. Following a criminal conviction, a former offender may lose the right to remain the parent of his or her child(ren). Four practitioners raised this collateral consequence as a harsh reality of conviction that damaged practice outcomes with clients. One MSW respondent recalled her experience with a client, a convicted father who had lost his parental rights. In detail, she described his situation: “the crime was white collar, non-violent . . . a crime that didn’t seem to impact his parenting skills or abilities but he was now seen as a ‘criminal’ and it was difficult to help him cope.” The collateral consequence of his conviction, then, was that he lost his right to remain the parent of his child. Even more troubling in this case was that the conviction was not related to parenting or child offenses; his conviction alone represented sufficient grounds to terminate parental custody by the child’s other parent in court proceedings.

Additional strains on the lives of offender clients’ families were reported in the areas of adoption and denied placement to a medical treatment residential care facility (requiring the offender’s family to subsequently care for him as best as possible). Describing the latter situation, a BSW practitioner stated that this practice outcome was challenged by her client’s earlier criminal conviction, leaving him “unable to be placed in a medical facility.” In situations similar to this, social workers must confront challenges created by a client’s conviction status, particularly with offenders who are senior citizens and/or in need of long term care placements. With this practitioner’s scenario, several questions emerge: Where do offenders go (or reside) if they are restricted from placement in a long-term medical care facility (and perhaps public housing) because of a past conviction? Of equal importance, how will these restrictions impact and create hardships on an individual’s health and collateral burdens on caregivers and family who had nothing to do with the client’s convicted status?

Another practitioner reported her practice with a former juvenile offender whose conviction offense prohibited him from being adopted by prospective families. The practitioner stated: “I had a child who had been registered as a perpetrator to younger children, [he] . . . was show[n] to every

interested adoptee family . . . he is still up for adoption and has been living in group homes since age 5.” In this instance, a collateral consequence of this client’s conviction included denial of a basic service (adoption) that might actually prevent his future reoffending. While protecting the “unsuspecting” public from serious offenders may be the rationale for imposing such a restriction, this finding illustrates the immeasurable lifelong consequence of this adoption restriction.

Among the “unintended” consequences that a criminal conviction can have on social work practice with offenders, the punishments that “go beyond the legal offender,” extending consequences to family members, are most disconcerting (Clopton & East, 2008; Codd, 2007; Comfort, 2007; Freudenburg et al., 2005; Manning, 2011; Miller, 2010; Mule & Yavinsky, 2006; Phillips et al., 2009; Truman, 2003). For instance, a BSW trained practitioner described working with a family whose child had committed burglary and vandalism. Her client, an “adult single mom of 2 was denied housing because [her] 12 year old son did [a] break-in and thousands of dollars of damage to a school.” Based on the youth’s conviction, the family was unable to secure public housing (which the housing authority has discretion to deny), which also affects the entire family and extended family members, with whom the mother and children must now rotate their living arrangements.

Further, another 20-year human services BSW veteran illustrated how the burdens of a previous criminal conviction impinge on offenders’ families. She noted that in her practice, generally “convicted felons have few housing options . . . [unless] they want to live with family . . . a lot of them [try to] live in government assisted housing . . . [and they] can’t go there-then . . . [they go] homeless . . . no resources or funding for housing-especially if they have a . . . person[al] offense.”

An additional collateral consequence of conviction for some offenders may be the practitioners’ lack of trust in his/her client, thus impairing the practice relationship. A 7-year BSW trained veteran, when describing her overall practice experiences with offenders, revealed: “having an offender you are directly working with—I would on occasion think twice before trusting what they are saying—which limit my effectiveness” in practice. This practitioner’s self-reflection illustrates how the collateral consequences of a criminal conviction go well beyond the offender’s conviction status to impact offenders and can also affect those around them, including social work practitioners.

#### “AGENTS OF RESTORATION”: HELPING OFFENDERS RESTORE LEGAL RIGHTS VIA EXPUNGEMENT

The second purpose of this study is to assess practitioners’ opinions about the “restoration of legal and civil rights” of offenders after conviction, as well

as their knowledge of and efforts to help former offenders obtain legal and court ordered remedies (e.g., expungement of criminal records) as part of their social services practice. This helping role for correctional social workers takes on added salience given that it falls within the domain of National Association of Social Workers (NASW; 2001, p. 4) Standard 5: “Social workers shall be knowledgeable about and skillful in the use of services available in the community and broader society and be able to make appropriate referrals for their diverse clients.” The opinions (reported as percentages agreeing with each statement) reported in Table 3 are in response to questions asked about practitioners’ awareness of existing statutorily available expungement procedures, knowledge of attorney/public defender roles in the courts, and their actual “hands-on” involvement in helping their offender clients with the restoration of legal/civil rights (e.g., working with clients to restore rights through the expungement process in the courts). It should be noted that the actual expungement filing and process can be undertaken in the study’s state of jurisdiction without the assistance of an attorney for many criminal convictions. Thus, practitioners are permitted to aid an offender in the expungement/restoration process. Questions in Table 3 also ask practitioners about their perceptions of how “aware” they believe their offender clients generally are regarding various collateral consequences’ restrictions.

The findings (opinions reported as percent agreeing with each item) in Table 3 reveal that a minority (25.7%) of our sample was “aware” of the Minnesota expungement statute to restore legal and civil rights of convicted offenders. Only 11.4% reported ever assisting an offender client to pursue the expungement of their criminal conviction record and restore their legal and civil rights. In this sample, 22.9% possessed knowledge of attorneys in the court system working to restore offenders’ rights via the courts. This latter finding may suggest that if clients continue to rely on traditional court actors in the system, many offenders (given their poverty/indigent status, joblessness, and inability to retain private counsel) are likely to continue enduring the

**TABLE 3** Practitioners’ Awareness, Views, and Experiences with Restoration of Offenders’ Legal and Civil Rights.

Practitioners’ awareness/views/experiences	% yes
I am aware of the Minnesota expungement statute to restore legal/civil rights	25.7
I have helped my offender clients pursue expungement of their conviction	11.4
Based on my knowledge, lawyers/public defenders are doing a fine of job of working hard to restore legal and civil rights of offenders	22.9
My offender clients are very aware of legal restrictions after conviction	37.1

effects of the collateral consequences of their convictions.<sup>3</sup> Finally, only slightly more than one-third (37.1%) of surveyed practitioners indicated that they believed their offender clients were aware of restrictions.

In addition to identifying the need for practitioner engagement in the restoration process, we also examined practitioners' general views toward offender clients and support for the restoration of rights after conviction. Thus, we asked several Likert-type questions and report in Table 4 the summed percentage of respondents in our sample agreeing with each statement.

The findings in Table 4 report practitioners' realization that the collateral consequences of a criminal conviction have damaged their clients' progress in practice and their adjustment in the community. Specifically, we found that only two of 35 (5.7%) respondents thought their offender clients had not been "hurt" by having restrictions placed on their legal and civil rights as a consequence of a criminal conviction. Similarly, a majority (85.7%) of practitioners agreed that having a criminal record "limits" employment opportunities for their clients. Also, approximately two-thirds of practitioners (65.7%) agreed that having a job is important to their client's success. Finally, all 35 surveyed practitioners agreed with the statement that "landlords denied housing" to former offenders. These findings, then, illustrate the importance of offenders'

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<sup>3</sup>The reality for most offenders is that they live in an extreme state of poverty and lack resources (see van Wormer, 1999) to successfully "afford" attorney assistance to pursue an expungement proceeding. Thus, as part of practice with offenders, social workers can assist offender clients to navigate the court/expungement process, assist with filing/paperwork, and also save on costs/resources most offenders do not have. Although the number of expungements may be small (when compared to the millions of convicted in the United States today), this advocacy and effort is consistent with the values of the profession of social work in aiding vulnerable populations. Finally, given the professional status of probation officers and their education and training, they are capable of developing this skill set as a "tool" in the arsenal of eliminating offender clients' collateral consequences (by purging the conviction). In the jurisdiction of this study, the use of an attorney is not required to pursue a court-ordered expungement. Also, the use of a "professional" to oversee the process and paperwork is permissible and required. Court rules require that an individual "other than the convicted" serve papers on all affected agencies and counsel affected by an application and order of expungement. Similarly, although not with expungements, Rothstein (2006) has proposed that social workers can help in restoration procedures. For example, New York social workers can aid ex-offenders to obtain certificates of rehabilitation. Mechanisms of restoration (either through expungement/sealing of criminal records or automatic restoration or certificates) improve the odds of successful reentry through employment and housing acquisition. Moreover, the expungement of criminal records removes public sources of humiliation and stigma continued through public, routine, and internet background check vendors that have exploded recently (see Harding, 2003; Thacher, 2008). Within this context, social workers can provide a service to help offenders, whereas wealthier defendants (typically members of the ethnic majority group) have the means and access to private counsel to represent them at expungement hearings. It is in this realm that social work practitioners could effectively battle the challenges (restrictions) of reentry created by collateral consequence laws and regulatory policies (Rothstein, 2006).

**TABLE 4** Practitioners' Views Toward Offenders' Legal and Civil Rights Restrictions

Practitioners' views	% agree
My clients' criminal record limits his/her employment chances	85.7
My offender clients have not been hurt by having restrictions on rights	5.7
The ability to obtain employment is the most important right for offenders	65.7
Offenders who reveal convictions on job applications do not get jobs	51.4
Landlords don't deny housing opportunities for former offenders	0.0
All offenders should be permanently denied/lose civil/legal rights	5.7
Restrictions on offenders' rights are needed to protect the public	37.1

securing the basics to succeed in practice and reentry in the community and the bias and discrimination that exists against those with conviction records.

Finally, we sought to assess practitioner's personal views toward the restriction of offenders' legal and civil rights based on conviction status. These questions were designed to determine both the "harshness" and/or "helping" dimensions of practitioner personal attitudes. Practitioner opinions reported in Table 4 indicate that our sample of respondents strongly disapprove of "permanent" collateral consequences restricting offender clients' rights. Thus, we found that only two practitioners (5.7%) agreed with permanent denials being placed on offenders' legal and civil rights. To assess the notion that collateral consequences are imposed to protect the public (as suggested in the earlier reported adoption denial practice situation), we found only 37.1% of our respondents agreed with the statement that "restrictions on offenders rights are needed to protect the public." These findings lend support to our practitioners' belief that offenders should not be permanently denied rights and that other reasons (perhaps rehabilitation and reformation) are more valued pursuits.

## DISCUSSION

This exploratory study assessed the impact of collateral consequences of a criminal conviction on offender clients, as reported by social work and human services practitioners. Consistent with prior offender reentry studies, we found employment and housing were the most commonly restricted rights of practitioners' clients. Our qualitative design also unveiled far-reaching restrictions and consequences for offender clients in the areas of parental rights, driving privileges, public housing denials, residential healthcare placement, restricted educational opportunities, and even being adopted because of an earlier juvenile conviction.

We also found evidence that the punishment of conviction extends "beyond" the convicted and has deleterious consequences for innocent family members of the offender client (Clopton & East, 2008; Codd, 2007; Comfort, 2007; Dallaire & Wilson, 2010; Freudenburg et al., 2005; Manning, 2011; Miller, 2010; Phillips et al., 2009). Two poignant examples of punishment "beyond" the

offender reported by practitioners occurred with an offender client's immediate and extended family members being subjected to "public housing restrictions," and another practitioner described her client's family as having to house and care for an aging and ill offender denied long-term care placement in a residential health facility. In both instances, the collateral consequences associated with a conviction worked against offender clients and challenged practice.

Our findings also suggest that our sample of practitioners is not meeting the needs of their offender clients in several respects. First, we learned that many practitioners were simply not aware of or knowledgeable of the collateral consequences that attach after a criminal conviction. Second, only four respondents indicated that they had ever aided offender clients in the restoration process or had assisted an offender with the expungement of their criminal record. These descriptive findings suggest the need for practitioners to personally learn about, counsel, and educate their offender clients regarding collateral consequences as well as to help offender clients pursue court ordered expungements as "agents of restoration" to restore lost legal and civil rights.

This is especially relevant in the state where we conducted our survey as the expungement statutes are quite lenient. Those convicted of sex offenses and any person who is required register under the predatory offender registration act is ineligible for expungement. Offenses that require registration include the following: murder in conjunction with forcible rape, kidnapping, felony criminal sexual conduct, and other violent crimes when committed by someone with prior record of a sex offense. Furthermore, judges can deny expungement if the offender is still under supervision of the correctional system (on probation or parole), it is believed the offender will commit another crime, the offender did not show that having the criminal record was harming him or her by hindering housing, employment, and other opportunities, as well as obtaining student loans and some government benefits. Besides these few restrictions, all other convicted felons are eligible for expungement of their criminal conviction (McKnight, 2005).

These deficiencies suggest a void in social work education identified by several researchers who have proposed that criminal justice courses and field training be included in social work curricula (see Young & LoMonaco, 2001). Moreover, our findings are consistent with social work scholars' suggestion that social work with offenders requires "specialized training" (see Roberts & Brownell, 1999), which we believe should include training in the expungement/restoration process to help offenders. At the very least, our findings reveal the gap between practitioners' meeting NASW Standard 5 of "being knowledgeable" to successfully serve communities (or ex-offender clients) and how ill-prepared practitioners working with offenders may actually be. Future research on social work with offenders should focus on these deficiencies to help improve this area of practice.

Awareness of collateral consequences is of crucial importance for social workers whose caseloads include offenders confronting the challenges of

reentry. Within the treatment field, interventions are now being developed that focus not only on addressing deficits or criminogenic needs (see Andrews & Bonta, 2010), but also that use the findings from desistance research (e.g., Sampson & Laub, 1993) to inform correctional practice (Brayford, Cowe, & Deering, 2010; Raynor & Robinson, 2009). Desistance research focuses on how access to prosocial roles, such as stable employment and relationships, can allow offenders to relinquish criminal identities and to live structured conventional lives that divert them from criminal associates and cause “desistance by default” (Laub & Sampson, 2002; Maruna & Roy, 2007). Unless they are fully understood, however, collateral consequences can serve as obscure but formidable barriers to securing the employment and living arrangements needed to sustain quality relationships. That is, they can serve to produce failure on offenders’ attempts to assume conventional roles and create incentives to return to places and people that encourage recidivism. Social workers thus would gain from systematic training in the nature and effects of collateral consequences. Only in this way can they devise strategies to assist reentering offenders in their caseloads to overcome such barriers.

Our study extends the above-mentioned desistance research by identifying several existing needs for social workers to address in their work with offenders, for which we make several suggestions. First, social workers and human services practitioners must become more knowledgeable of what collateral consequences entail and how they restrict or deny a client’s rights. Second, social workers’ involvement in legal cases (and, in this case, expungement) has precedent. For instance, the legal profession and forensic social workers have long engaged together in community practice to help offender clients (see Brustin, 2002; Pinard, 2005, 2010b; Rothstein, 2006); thus, effective work with offenders must address the legal consequences of conviction to successful reentry and community participation. Third, in our special challenge to social workers to become “agents of restoration,” we propose practitioners go one step further than simply working with attorneys to pursue expungements. Specifically, we propose that social work and human services practitioners work independently to pursue expungements and develop this skill set as a “tool” in the arsenal of eliminating offender clients’ collateral consequences (by purging the conviction).<sup>4</sup>

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<sup>4</sup>First, practitioners need to become fully aware and knowledgeable about the collateral consequences of conviction for those convicted in their jurisdictions of practice. As practitioners, we owe our offender clients this information to help them. Second, practitioners must learn the processes and procedures to proactively assist offender clients (when available) in the pursuit of court-ordered expungements (or available restoration mechanisms in their home state or jurisdiction), which has the effect of purging and restoring lost civil and legal rights and removing the criminal record from public view. The outcome of the restoration is that offender clients are returned to their preconviction status and are able to obtain the basics of employment and housing, participate in society, and make efforts to avoid public humiliation because of their criminal conviction status.



## Study Limitations

Several caveats are in order with regard to our study's findings and implications. First, as a qualitative study, our sample is small and nonrandom (i.e., convenience sample), thus our findings should be interpreted with caution as they are not intended to be generalizable. As respondents were drawn from one geographic area in one state, findings relate to policies specific to their jurisdiction.

Our findings point to glaring deficiencies in practitioners' awareness and knowledge of collateral consequences and their lack of hands-on involvement with offender clients to help them restore lost civil and legal rights through court-ordered expungements. However, our study may underestimate the true impact of collateral consequence on offenders as social workers in this sample were relatively unaware of such limitations placed on offenders. Future studies should ask social workers and other human service professionals to identify hardships their clients are facing (e.g., inability to secure housing, limitation in employment opportunities) and the perceived reason for this hardship which would allow for determination of whether or not such hardships were the result of the collateral consequences of a felony conviction.

Despite these limitations, study findings are indicative of potential patterns of need in the practice area of social work with offenders, underscoring the need for criminal justice education and training to be adopted by social work curricula and field training with offender populations (Roberts & Brownell, 1999; Young & LoMonaco, 2001). Although empirical examination of causality of opinions or predictors of practice experiences were beyond the scope of this exploratory study, such studies are needed in the future to further investigate these qualitative findings. Our qualitative assessment with practitioners extends the literature on collateral consequences by shedding light on the deficiencies and needs that presently exist among professionals working with this ever growing disadvantaged and vulnerable population of offenders. Thus, our findings, while exploratory in nature, are relevant and important for both social work practitioners and researchers.

## CONCLUSION

Addressing the collateral consequences of conviction is an area with which social workers engaged in practice with offenders must be concerned. Whether it be a client's reentry soon after criminal justice supervision or working with a client hampered by a conviction record from their distant past, these legal and regulatory restrictions constrain offenders' future opportunities. Social workers must help restore these rights as doing so not only helps the convicted person but also helps break the cycle of destroying families (Codd, 2007) and communities (Clear, 2007).

Because the restoration mechanism is available to many offenders in various jurisdictions, social workers should utilize expungements as an available “tool” to remove restrictive barriers and create opportunities for former offender clients. Although a rather simplistic suggestion, even the incremental, case-by-case use of expungement procedures by social workers will greatly aid members of disadvantaged populations to participate in society and help attenuate racial, economic, and social injustices to members of vulnerable populations in our society. Of equal importance, helping to restore former offenders’ civil and legal rights will go a long way toward correcting structural and social imbalances for what is now millions of convicted individuals. Hence, the pursuit of social justice efforts to restore civil and legal rights must be undertaken by practitioners when the opportunity presents itself.<sup>5</sup>

Historically, social workers have committed themselves to meeting the challenges of helping disenfranchised groups in society such as the elderly, people living in poverty, and individuals struggling with mental illness. The social work profession is well situated to help remedy the concentrated disadvantage imposed on vulnerable and ethnic minority populations (Alexander, 2010; Young & LoMonaco, 2001). In work with offenders, although small gains have been made to “lessen” the impact of collateral consequences with legislative acts, proposed policies, and the receipt of promising court decisions, much more is needed to eliminate the collateral consequences of a conviction. It is the profession of social work that must accept this special challenge and step up its commitment to helping and advocating for offender populations.<sup>6</sup>

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<sup>5</sup>Not all offenders are eligible for court-ordered expungements. For instance, most offenses of violence, certain drug, and serious felonies are precluded from eligibility. Also, waiting periods may apply before seeking an expungement order. Silva (2010) noted that 17 states have expungement and/or sealing procedures available, another 14 states use governor pardons to expunge convictions, and 32 states have combined approaches of expungements, judicial set-aside of convictions, and deferred adjudications of conviction records. On the other hand, the majority of misdemeanor (the vast majority of all criminal convictions) and minor felony offenses are eligible for court ordered expungement and the restoration of civil and legal rights (see, e.g., Burton et al., 1988; Olivares, Burton, & Krause, 1997; Sahl, 2013).

<sup>6</sup>We suggest going one step further and making the special call to social workers to help restore these rights. While working with offenders’ attorneys, many courts do not require an attorney to complete expungement packets (although we also suggest social workers can greatly assist attorneys in the process of aiding with evidence of rehabilitation for the expungement order and documentation) to restore rights and obtain expungement. In the context of practicing with offenders, we suggest social workers become familiar with this mechanism of purging and sealing and restoring lost legal and civil rights, when possible. Our findings also revealed the troubling notion that practitioners may not trust their clients . . . how can successful practice and reentry occur in this relationship with a client? Until judges, prosecutors, and lawyers are required to inform defendants of legal restrictions and collateral consequences (Larkin, 2011), practitioners must use “available” mechanisms (expungements, sealing, judicial set-aside of convictions, etc.) legislatively available to restore rights.

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