

# “I Breathe Again”

## THE EXPUNGEMENT HELP DESK

By Robert B. Acton

I doubt that attending musical theatre is typically a transformative experience for hardscrabble, big-shouldered members of the Chicago Bar but, I will confess, it was for me.

In the summer of 1993, I sat down in Manhattan’s Imperial Theatre on 45<sup>th</sup> Street to take in my first-ever Broadway show, a performance of *Les Misérables*. Having not read Victor Hugo’s novel, I was unfamiliar with the story of Jean Valjean, a convict paroled after a 19-year prison sentence for stealing a loaf of bread to feed his starving niece.

As he begins his life as an ex-offender, Valjean exclaims, “Freedom is mine. I feel the wind. I breathe again. Let’s see what this new world will do for me!” Yet it does not take long for Jean Valjean’s optimism to receive a blow to the gut. He is cheated out of wages: “Why should you [be paid] the same as honest men like me?” He is denied lodging by an innkeeper: “[L]eave my house. We’re law-abiding people here, thanks be to God.” As doors close all around him because of his past, Valjean’s hopefulness is quickly lost.

By happenstance or providence, the kindly Bishop of Digne meets Valjean, invites him into his home, treats him with dignity, and shares his sparse resources by offering wine, food and a bed. This generosity is poorly rewarded, however, when Valjean steals a silver cup and flees in the middle of the night. He is soon caught and detained by constables who immediately deduce that Valjean has stolen the silver cup from the Bishop. They take Valjean back to the Bishop’s home for identification, confirmation of the crime, and a subsequent arrest.



And then something very special happens. The Bishop of Digne extends undeserved, unnecessary, unqualified grace. He dissuades the officers of their conviction that Valjean has stolen the silver, insisting instead that he gave the cup to Valjean as a gift. This act of pardon becomes the basis for a life transformed. Jean Valjean invests the remainder of his days extending to others the same grace and opportunity for redemption that he was granted from a stranger.

### Pro Bono Impact at CGLA’s Expungement Help Desk

In the mold of the Bishop of Digne, volunteer and staff attorneys in Cabrini Green Legal Aid’s (CGLA) Criminal Records

Program are practitioners in the redemptive process. We passionately believe in the power of second chances, and we work very hard to provide new opportunities for those stymied by arrest and conviction records who simply need a fresh start at life.

In the last three-and-a-half years, *pro bono* attorneys and law students have provided free legal assistance to over 14,000 visitors to our Expungement Help Desk located on the 10<sup>th</sup> Floor of the Daley Center. Patrons seek an expungement of an arrest record, the sealing from public view of a record with non-violent convictions, or assistance securing a pardon for non-sealable convictions. This extraordinary volume of service is made possible through

the generosity and skill of an army of CGLA volunteers. In just the last 12 months, 134 *pro bono* attorneys and law students served 4,531 individuals at the Help Desk—a remarkable demonstration of the private bar partnering with a legal aid organization to meet the needs of a community.

This is *pro bono* work that creates tangible life impact for Chicagoans with many years of employability and productivity left, if given the chance. The patrons of CGLA's Expungement Help Desk are overwhelmingly male (64%) and African American (70%), with a median age of 36 years old. The results of our comprehensive client data and outcome measurement system tell a powerful story:

- 82% of the 4,500 Chicagoans who come to the Desk each year seek a clean record because they need work. The vast majority are unemployed, actively looking for jobs. Others are “under-employed” in that their education and experience outweigh the jobs for which they qualify with the criminal record in place.
- Of those who are unemployed, 64% identify their record as the *primary* barrier to employment.
- 14% seek a clean record in order to enter an education or jobs training program.
- 7% need an expungement or sealing in order to qualify for housing.

Happily, the Desk is sheathed in hope. Fully 39% of the individuals we serve qualify to file for an expungement or sealing *that very same day*. Another 24% will be eligible after a remaining barrier is cured, such as waiting for a statutory time period to toll or taking a drug test to confirm that the he or she is still clean and sober.

While these outcomes demonstrate the significance of this high-volume, high-impact model of legal service delivery, they nonetheless mask a crucial societal problem: there are thousands and thousands of Chicagoans with unsealable convictions that can only be removed through an executive clemency from the Governor of Illinois.

### Pro Bono and Executive Clemency

Section 12 of Article V of the Illinois Constitution gives the Governor the power to

grant pardons. CGLA volunteer and staff attorneys have filed petitions on behalf of over 250 clients very much deserving of this relief. Before CGLA accepts a client's case, we review the individual's criminal record and life background for reassurance that earlier mistakes will not be repeated. The conviction records of our clemency clients are more than 10 years old—often 20 and 30 years old—with no intervening arrests in the last decade. None are incarcerated or on probation. Their lives are marked by demonstrated life change.

*Pro bono* attorneys handling these matters work closely with CGLA clients to understand their criminal history, identify how the record has continued to negatively impact their life, and document life transformation since. Attorneys then chronicle this narrative in a petition for clemency which is filed with the Prisoner Review Board (Board). Thereafter, *pro bono* counsel appears with his or her client at a Board hearing, presenting their very personal stories in order to demonstrate appropriateness for the Governor's pardon. In turn, the Board provides the Governor with a confidential, non-binding recommendation on whether to grant or deny the petitioner's request. While Governor Blagojevich's record in making clemency decisions was deplorable, prompting a federal due process action by 12 CGLA clients asking the court to order that a decision be made on a backlog of over 2,600 cases, Governor Pat Quinn has thus far demonstrated that he takes this job responsibility seriously and, in fact, has begun to grant pardons to those he deems worthy of a second chance. Importantly, this federal action, *Bowens, et al. v. Blagojevich*, was handled *pro bono* by Charles C. Jackson and a handful of talented associates at Morgan Lewis & Bockius LLP.

### A Societal Grudge that Cannot Be Assuaged

In 2006, Francis Cardinal George of the Archdiocese of Chicago eloquently described this problem at CGLA's Annual Benefit. In his address, he recognized that “thousands of [Chicagoans] have arrest records or criminal convictions and most of these records were justly acquired.” He

The Chicago Bar Foundation is a longtime supporter of Cabrini Green Legal Aid, and played an integral role in the planning and launch of the Expungement Help Desk. Along with providing strategic advice and technical assistance in developing the project, the CBF provided the seed funding for the Desk and continues to provide consistent funding and support.

then continued:

Years [later], however, many of these individuals have returned to society as responsible and productive members. They have ‘paid their debt to society,’ as the common phrase puts it, but their criminal record keeps them from being fully reconciled to the community. They are forever prevented from seeking some employment opportunities and may also be forbidden to participate in the political process. It is as if a self-righteous society holds a grudge that cannot be assuaged. For the remainder of their lives they will be set apart from the community and marked as an individual with a ‘record.’ There is an imposition of shame that will regularly await them in job interviews or, these days, perhaps even when they attempt to board a plane. Their social situation amounts to a form of ‘shunning’ enforced by the state.

Cardinal George concluded that “[w]here the protection of society is not jeopardized, the full reconciliation of persons to the community by the expungement or sealing of their criminal records (or the filing of clemency petitions) can be justified.”

### Get Involved (Or Said Another Way, Be the Bishop of Digne)

*Pro bono* counsel who handle clemency matters for CGLA meet individuals like Denise, a deaf woman, who was 25 years-

old when she was arrested for using force to protect herself from the violent blows of an abusive boyfriend. In court, Denise's attorney did not know sign language and

an interpreter was not provided. Through a haze of confusion, Denise pled guilty so she could bring an end to the matter and go home to her children. She successfully com-



## Level the Playing Field...

As a judge who has presided over mortgage foreclosure cases for years, I am happy to know that there are pro bono organizations where less affluent litigants can have their legal needs addressed. Every citizen is entitled to representation in court and pro bono organizations play a very important role in making sure that the less privileged have the means necessary to tell their side of the story. I encourage attorneys to volunteer their time and energy for this worthwhile cause. Only by your efforts can we level the playing field and ensure equal justice under the law!



Honorable Lewis Nixon,  
Supervising Judge  
Mortgage Foreclosure/  
Mechanics Lien Section  
Chancery Division

The Chicago Bar Association & The Chicago Bar Foundation's

**2009 Pro Bono Week: Oct. 26-30**

"With malice toward none; with charity for all." -Abraham Lincoln  
[www.chicagobar.org/probonoweek](http://www.chicagobar.org/probonoweek)

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## HELP SOMEONE GET A FRESH START

Volunteers who are interested in assisting individuals with petitions for executive clemency should call the Chicago Legal Clinic's Austin Circle Law Center at 773/854-1610 and ask to speak with Marjie Nielsen (Director of the Ex-Offender Advocacy Program) or Doug Brann (Office Manager, Austin Office).

Volunteers interested in handling a clemency matter or volunteering at the Cabrini Green Legal Aid Expungement Help Desk should contact volunteer coordinator Victoria Piehowski at [victoriapiehowski@cglanet.net](mailto:victoriapiehowski@cglanet.net).

pleted two years probation. Now, 27 years later, Denise has been arrest-free for nearly three decades, happily married for 19 years, and simply wants to find a janitorial job to support herself and her family. She is actively working with job developers to move into the tax-paying ranks of the employed. Individuals like Denise deserve to be pardoned so they can progress forward with their lives.

Victor Hugo captured the tragic phenomenon well in *Les Misérables*. Despite courageous effort, ex-offenders are too often held back by old convictions and told "no" when they apply for employment and reveal their mistakes of years gone by on a job application. These individuals are told "no" when they apply for occupational licenses. They are told "no" when they search for housing. As an attorney in Chicago, you have the opportunity to help them hear the word, "Yes." If you are interested in handling a *pro bono* clemency matter or serving as a volunteer at CGLA's Expungement Help Desk at the Daley Center, contact CGLA's volunteer coordinator at (312) 738-2452 ext. 424 and we'll connect you with individuals genuinely deserving of a second chance. ■

*Robert B. Acton is the Executive Director of Cabrini Green Legal Aid.*

## HEADING NORTH?

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