

## LAW DAY

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in

FRIDAY, MAY 1, 2015

# 800 Years of Magna Carta: Symbol of Freedom Under Law

## Bedrock Principles of Justice Are Ever-Evolving



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Strengthening and supporting the federal legal system is the primary mission of the Federal Bar Association. The theme of this year's Law Day invites us to celebrate the document that is widely credited with first recognizing some of the most fundamental tenets of our criminal justice system, including the acknowledgement of individual liberty and the right to trial by jury. We approach this task at a very important time, when many courts are developing programs which re-evaluate the way that certain types of criminal offenders are handled.

The U.S. Supreme Court long ago observed: There is nothing in Magna Carta, rightly construed as a broad charter of public right and law, which ought to exclude the best ideas of all systems and of every age; and as it was the characteristic principle of the common law to draw its inspiration from every fountain of justice, we are not to assume that the sources of its supply have been exhausted. On the contrary, we

should expect that the new and various experiences of our own situation and system will mould and shape it into new and not less useful forms.

*Hurtado v. People of California*, 110 U.S. 516, 531 (1884). Indeed, the Fifth Amendment to the Constitution is directly influenced by Magna Carta's "Law of the Land" clause, guaranteeing judicial process according to the "law of the land."

Around the country, courts have been developing prison diversion, treatment and re-entry programs pertaining to certain categories of criminal offenders. The Eastern District of New York has been at the forefront of such efforts. Specifically, the Eastern District has developed two widely heralded presentence diversion programs designed to provide alternatives to incarceration. The Pretrial Opportunity Program provides non-violent offenders with documented substance abuse problems an opportunity to be taken out of the traditional sentencing and incarceration paths, and provides them with counseling and improvement programs, such as earning a General Education Development certificate, obtaining employment or gaining college admission. The Eastern District's Special Options Services program offers similar opportunities for certain youthful offenders. In addition to these diversion programs, the Eastern District has developed Supervision to

Aid Re-entry courts, which assist offenders with a documented history of substance abuse in re-entering their communities at the conclusion of their prison terms. These programs greatly serve the vision of individual liberty and due process of law that was recognized in the Magna Carta.

Such programs are not limited to the Eastern District of New York. Many courts across the country are successfully adopting diversion, treatment and re-entry programs. As we celebrate the document that first laid some of the cornerstones of our criminal justice system, it is a good opportunity to acknowledge the great strides that are being made to improve our system of justice. The bedrock principles of our criminal justice system set in place by the Magna Carta are ever evolving and as such, re-evaluating how certain criminal offenders are handled and looking at ways to continually evolve our criminal justice system not only benefits the affected offenders, it benefits our society as a whole. More to the point, it continues the vision of justice launched by the Magna Carta.

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