

The denial of voting rights to people with criminal records

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The problem

In 48 US states, felony disenfranchisement, or the denial of voting rights to people with criminal records, creates or exacerbates multiple problems. It limits democratic participation, increases racial inequality, conflicts with public opinion, compromises reintegrative efforts and public safety, creates needless confusion about eligibility, and is far out of step with international practices. Moreover, the threat of prosecution for unlawful voting—which can result in a new felony conviction—further reduces democratic participation even among eligible voters.

Over 4.6 million US adults are disenfranchised, or deprived of the right to vote based on a past felony conviction.¹ State laws vary greatly across the country, with some states not imposing disenfranchisement on any group (Maine and Vermont), some restricting voting rights for people in prison (for example, Illinois), others restricting rights for people serving probation or parole sentences in the community (for example, Wisconsin), and some disenfranchising even after the entire sentence is served (for example, Alabama). Overall, about 48 percent of the disenfranchised had already completed their full sentences, another 28 percent are serving sentences in the community on probation (21 percent) or parole (7 percent), and the remaining 24 percent are currently incarcerated. The nation is an outlier internationally, both for

the overall number disenfranchised and for the percentage of the voting age population that is disenfranchised (2 percent of the total voting eligible population).

The deprivation of voting rights to people with criminal records not only harms individuals but also communities, as it dilutes the political power and voting strength of underrepresented communities. When states tie voting eligibility to criminal convictions, disparities in the criminal legal system spill over to affect the political system, as groups that are more likely to be surveilled, arrested, convicted, and incarcerated lose political power relative to more advantaged groups. This shapes the candidates who run for local, state, and federal office, the appeals they make to constituents, and the policies that they enact regarding schools, public assistance, healthcare, justice reform, and many other issues. In the contemporary United States, Black and Native American communities are subject to much greater disenfranchisement than White communities, and poor and working-class communities are subject to greater disenfranchisement than more affluent communities. By stripping voting rights from people convicted of crime, discrimination in the criminal legal system is reproduced and amplified in the political system.

Research evidence

Racist origins and impact of disenfranchisement

Throughout history many societies have imposed disenfranchisement in one form or another, but the United States is distinctive for the wide scope and long persistence of its felony voting bans. Like other US voting restrictions, the practice of denying the vote to people convicted of crimes is tied to racial conflict, Jim Crow-era restrictions, and the enduring effects of structural racism. Many US states passed felony voting bans in the Reconstruction era following the Civil War, as the votes of newly freed male slaves threatened to upend White supremacist political institutions.² Racial disparities in disenfranchisement persist today. In 2022, approximately 5.3 percent of voting age African Americans

were disenfranchised, compared to 1.5 percent of the adult non-African American population.

Changes over time and space

The size of the disenfranchised population has fluctuated over time, rising to a peak of 6.1 million in 2016 before dropping by 24 percent between 2016 and 2022. Prior to that, the disenfranchised population grew apace with mass incarceration between the 1970s and 2010s. Even though many states began paring back felony voting restrictions in the 1960s, these incremental legal changes were outpaced by the much larger rise in felony convictions during the mass incarceration era. The recent drop, however, is more directly attributable to legal reforms and executive orders to expand voting rights in many states, including Florida. Despite this notable decline, roughly the same number of US citizens are disenfranchised today as in 2000, when the denial of voting rights to people with criminal records likely played a decisive role in Republican George W. Bush's victory over Democrat Al Gore.³

Thanks to substantial differences in state laws and policies, the disenfranchised population varies widely by state. Although Maine and Vermont remain the only states in which people in prison can vote, ten states have enacted legal or policy changes that expanded voting rights to some non-incarcerated people between 2020 and this writing (in April 2023). In all, over half of the states scaled back voting restrictions in recent years, though several Southeastern states remain holdouts of more restrictive policies. Our *Locked Out 2022* report showed that disenfranchisement rates varied from 0.15 percent of the voting eligible population in Massachusetts (and zero in Maine and Vermont) to more than 8 percent in Alabama, Mississippi, and Tennessee.⁴ In the latter three states, over 14 percent of otherwise-eligible African Americans are excluded from voting due to felony disenfranchisement laws.

The United States as international outlier

The United States is rare among democracies for disenfranchising people who are not currently incarcerated and voting from prison is legal and encouraged in many nations. A 2017 study identifies 31 countries that do not disenfranchise people in prisons (for example, Bangladesh, Ireland, South Africa), 35 countries that impose broad voting restrictions on people in prisons (for example, Bulgaria, the Czech Republic, the United States), and 45 countries that selectively impose restrictions on certain types of offenses (for example, Australia, Germany, the Netherlands). Post-release restrictions are rare, and debates in many other democratic nations generally concern the voting rights of people who are currently incarcerated.⁵

Voting, crime, and reintegration

Researchers generally find a strong correlation between voting and law-abiding behavior. Relative to non-voters, people who vote are less likely to be arrested, more likely to successfully complete probation and parole, and less likely to be reincarcerated. Although we cannot be certain that eliminating disenfranchisement would reduce crime, there is no evidence whatsoever that restoring the vote to people with criminal records would somehow lead to greater crime. On the contrary, there is much evidence that participation in civic life, like participation in work and family life, is linked to success after people are released from prison.⁶

Public opinion

The public strongly favors restoration of voting rights for people who have completed their sentences and, to a lesser extent, for people on probation and parole; it does not, however, favor voting for people currently serving prison sentences.⁷ In the 2022 Collaborative Midterm Survey, support for voting rights restoration was strongest among

Black respondents, women, those aged 18–39, Democrats, and those with college degrees and higher income. These public opinion results suggest that the 11 states that continue to disenfranchise many people who have completed their sentences (Alabama, Arizona, Delaware, Florida, Iowa, Kentucky, Mississippi, Nebraska, Tennessee, Virginia, and Wyoming) are badly out of step with public opinion.

Jail eligibility

Although 48 states disenfranchise people incarcerated in prisons, the vast majority of those held in jail retain the legal right to vote. This is because disenfranchisement is generally tied to felony conviction rather than to misdemeanor conviction or pretrial custody status. About 65 percent of the 636,000 people being held in US jails are being held pretrial (typically because they cannot post bail) and many of those serving sentences have been convicted on misdemeanors that do not result in disenfranchisement. Yet registering and voting from jail remains extraordinarily difficult in many jurisdictions and receiving even a short jail sentence decreases the likelihood of voting in the next election by several percentage points.⁸

Recommendations and solutions

1. Restoring the vote to people convicted of felonies

- We recommend full restoration of voting rights for people with criminal records. Over 1.5 million justice-impacted people have regained the vote in the United States since 2016, but over 4.6 million remain disenfranchised. The hard-fought gains in recent years have been the result of impressive coalition-building, often led by system-impacted people such as Desmond Meade and advocacy organizations that support such work, such as The Sentencing Project, the Brennan Center, and the American Civil Liberties Union. Nevertheless, the restore-the-vote movement is currently facing serious

headwinds and possible reversals in states such as Virginia (where restoration had rested on executive orders) and North Carolina (where restoration has rested on a state court decision that may be overturned). To achieve the long-term goal of full restoration, different actions will be required in different states, based on the specific voting exclusions and the political viability of reform efforts in each state. We will therefore offer specific recommendations regarding policies that disenfranchise people after completion of their sentences, states that disenfranchise people on community supervision, and states that disenfranchise people in prison.

- *Restoring the vote to people after they complete their sentences*: Restoring the vote to the 2.2 million people who remain disenfranchised after completing their sentences would have the greatest impact on the overall rate and number of people denied the vote. Eleven states still have laws disenfranchising people no longer under supervision. Such laws have faced constitutional challenges, but the US Supreme Court held in *Richardson v Ramirez* (1974) that people convicted of felonies could be barred from voting without violating the 14th Amendment of the US Constitution.⁹ In recent years, governors in states with post-sentence disenfranchisement restrictions (for example, Iowa, Kentucky, Virginia) have used executive orders to restore voting rights. Although such orders eventually led to more durable legislation in Iowa, the practice of restoring rights often stops abruptly when a new governor is elected. Strong legislation and appellate court decisions that strike down disenfranchisement laws offer more durable protection for a fundamental right like the right to vote.
- *Restoring the vote to people on community supervision*: The recent wave of legal changes has generally involved restoration of voting rights to people who are currently under probation or parole supervision in the community. Since 2020, broad coalitions of voting rights advocates have restored voting rights to people under such supervision in California, Connecticut,

Minnesota, New Jersey, New Mexico, New York, North Carolina, and Washington. Nevertheless, 24 states continue to disenfranchise non-incarcerated people who are currently under supervision. We recommend repealing these restrictions because they conflict with the goals of community supervision, which involve restoring connections between justice-impacted people and their families, workplaces, and communities.

- *Restoring the vote to people currently incarcerated in prison*: Restoration of voting rights to currently incarcerated people can be justified for many of the same reasons that restoration has been justified for non-incarcerated populations. Nevertheless, widespread popular support for reenfranchisement often stops at the prison gates, and only Maine and Vermont have fully severed the tie between voting and punishment. Nevertheless, efforts to restore the vote to people in prison gained significant traction in both Oregon and Connecticut in 2023, demonstrating the viability of prison reenfranchisement efforts in the 22 states that have restored the vote to non-incarcerated populations but not people in prisons.

2. Expanding registration for eligible voters in jail

We recommend a series of actions to protect the voting rights of eligible voters incarcerated in US jails. There are several ways to increase ballot access among eligible voters in jail and many successful models for doing so.¹⁰ These include:

1. providing voter education, registration materials, and outreach programs in jails;
2. following Cook County (IL) and other large jails in establishing permanent jail polling locations;
3. following Colorado and Arizona in requiring sheriffs and elections officials to provide ballot access to jailed voters;
4. following Philadelphia in designating voter coordination responsibilities to jail or local elections staff;

5. expand policies that ease registration requirements, identification requirements (for example, permitting use of jail identification cards or signed affidavits when other identification materials have been confiscated), and easing requirements for absentee voters more generally.

3. Provide registration materials as part of prison reentry programming

- In states in which people gain eligibility upon prison release, we recommend that state Departments of Corrections and Secretary of State offices partner to routinely provide voting and registration materials as part of pre-release planning and upon release from prison. In California, for example, the Division of Adult Parole Operations provided literature, hosted voter registration events in 2022, and included clear voter registration instructions on California Department of Corrections and Rehabilitation websites.

4. Cessation of aggressive unlawful voting prosecutions

- Because unlawful voting can result in a new felony conviction, even people who have regained the right to vote are often hesitant to exercise this right. Throughout the United States but most notably in Florida, Texas, and Tennessee, people with criminal records have recently become the targets of aggressive high-profile prosecutions for voting while ineligible.¹¹ Because these highly publicized prosecutions can result in new felony convictions and multi-year prison terms, they are likely to have a chilling effect on the political participation among eligible voters with criminal records.

5. *Growing the base of research evidence*

- We recommend continued research on voting and civic reintegration for people with criminal records, better understanding of the role of civic participation as an aspect of post-release success, systematic studies of illegal voting prosecution, and analyses of the broader impacts of reenfranchisement in states where people with criminal records have regained the right to vote. National advocacy organizations and grassroots coalitions that include justice-impacted people have led the way in expanding voting rights for people with criminal records. Yet researchers also play an important part in advancing knowledge on disenfranchisement and building a policy-relevant research infrastructure.

Conclusion

Although many states have recently restored the vote to some segment of previously ineligible justice-impacted people, over 4.6 million remain disenfranchised in the United States. Such reforms have been effective in reducing this number and there are continued opportunities to reduce it further. Nevertheless, such reforms remain piecemeal and inconsistent, affecting only non-incarcerated populations. Permanently severing the link between voting and punishment—and paring back or sunseting other collateral sanctions that do not serve compelling public safety interests—is a more ambitious longer-term goal that has been realized by other democracies around the world. In the shorter term, more targeted efforts to ensure jail registration and expand voting rights for people currently under supervision have proven effective in expanding ballot access in recent years.

Key resources

American Civil Liberties Union (2005) “Voting While Incarcerated: A Tool Kit for Advocates Seeking to Register, and Facilitate Voting By,

- Eligible People in Jail.” <https://www.aclu.org/other/voting-while-incarcerated-tool-kit-advocates-seeking-register-and-facilitate-voting-eligible>
- Budd, K.M. and Monazzam, N. (2023) *Increasing Public Safety by Restoring Voting Rights*. Washington, DC: The Sentencing Project. <https://www.sentencingproject.org/policy-brief/increasing-public-safety-by-restoring-voting-rights/>
- Jackson-Gleich, G. and Yeary, S.T. (2020) “Eligible But Excluded: A Guide to Removing the Barriers to Jail Voting.” Prison Policy Initiative. https://www.prisonpolicy.org/reports/jail_voting.html
- Manza, J. and Uggen, C. (2006) *Locked Out: Felon Disenfranchisement and American Democracy*. New York: Oxford University Press.
- National Academies of Sciences, Engineering, and Medicine (2022) *The Limits of Recidivism: Measuring Success After Prison*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26459>
- Porter, N.D. (2020) *Voting in Jails*. Washington, DC: The Sentencing Project.
- Uggen, C., Larson, R., Shannon, S., and Stewart, R. (2022) *Locked Out 2022: Estimates of People Denied Voting Rights Due to a Felony Conviction*. Washington, DC: The Sentencing Project.

Biographical notes

Christopher Uggen is Regents Professor in Sociology, Law, and Public Affairs at the University of Minnesota and co-editor and publisher of TheSocietyPages.org. He studies crime, law, and inequality, firm in the belief that sound research can help build a more just and peaceful world. His books include *Prisons and Health in the Age of Mass Incarceration* (Oxford University Press, 2022) and *Locked Out: Felon Disenfranchisement and American Democracy* (Oxford University Press, 2006). Uggen’s current projects examine voting rights, Scandinavian justice, and monetary sanctions. He is a fellow of the American Society of Criminology and a recent Vice President of the American Sociological Association.

Ryan Larson is Assistant Professor of Criminology and Criminal Justice at Hamline University. His research explores how the varied forms, intensities, and social contexts of punishment impact aspects of social life and crime. His work expands upon how punishment, in part, reproduces

inequalities by race, place, and crime, and he also investigates scientific and policy questions within the sociology of crime and punishment. Dr. Larson's scholarship places an emphasis on the innovative use of quantitative methodology, including contemporary methods of causal inference. He is a co-investigator on the Dual Debtors project and a researcher on the Multistate Study of Monetary Sanctions.

Sarah Shannon is Meigs Distinguished Professor of Sociology and Director of Criminal Justice Studies at the University of Georgia. Her research focuses on systems of criminal punishment and their effects on social life. Sarah's current research projects focus on the drivers of rural jail incarceration rates and the community-level impacts of monetary sanctions.

Robert Stewart is a sociological criminologist and Assistant Professor at the University of Maryland, and a 2022 Emerson Collective Fellow. He studies the social, political, and collateral consequences of criminal legal involvement with an emphasis on the accumulating effects of criminal legal interaction and criminal records on impacted people and communities. As an advocate of public criminology, he believes that communicating our work effectively to policy makers, practitioners, and the public is a fundamental part of scholarship. He served as the founding Director of Research of the Minnesota Justice Research Center, a nonprofit working to improve the justice system through high-quality and accessible research, policy development, and education.

Caleigh Lueder is a recent graduate of the University of Minnesota and an incoming graduate student at the University of St. Thomas in counseling psychology. She has conducted research on voting restrictions and on the exploitation and representation of mental illness in horror films.

Notes

1. These and other statistics are taken from the authors' recent report with The Sentencing Project. Uggen, C., Larson, R., Shannon, S.,

- and Stewart, R. (2022) *Locked Out 2022: Estimates of People Denied Voting Rights Due to a Felony Conviction*. Washington, DC: The Sentencing Project.
2. For details, see Behrens, A., Uggen, C., and Manza, J. (2003) "Ballot Manipulation and the 'Menace of Negro Domination': Racial Threat and Felon Disenfranchisement in the United States, 1850–2002." *American Journal of Sociology*, 109: 559–560.
 3. See, for example, Uggen, C. and Manza, J. (2002) "Democratic Contraction? Political Consequences of Felon Disenfranchisement in the United States." *American Sociological Review*, 67(6): 777–803.
 4. Uggen et al, *Locked Out 2022*.
 5. On contemporary disenfranchisement in other nations, see Chowdhury, I.T. (2017) *Criminal Disenfranchisement Policies across Democracies: The Impact of Democracy, Punishment and Race*. PhD dissertation, University of Alabama Libraries.
 6. On voting and recidivism, see Gerber, A.S., Huber, G.A., Biggers, D.R., and Hendry, D.J. (2017) "Can Political Participation Prevent Crime? Results from a Field Experiment about Citizenship, Participation, and Criminality." *Political Behavior*, 39: 909–934. On the importance of voting to social reintegration, see National Academies of Sciences, Engineering, and Medicine (2022) *The Limits of Recidivism: Measuring Success After Prison*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26459>
 7. For public opinion research on voting and criminal convictions, see Dawson-Edwards, C. (2008) "Enfranchising Convicted Felons: Current Research on Opinions towards Felon Voting Rights." *Journal of Offender Rehabilitation*, 46: 13–29; Enns, P.K., Barry, C.L., and Schuldt, J.P., "2022 Collaborative Midterm Survey: Methodological Summary and Usage Document." <https://socialsciences.cornell.edu/funding-programs/2022-collaborative-midterm-survey>; Manza, J., Brooks, C., and Uggen, C. (2004) "Public Attitudes toward Felon Disenfranchisement in the United States." *Public Opinion Quarterly*, 68: 276–287.
 8. On jail voting policies, see Porter, N.D. (2020) *Voting in Jails*. Washington, DC: Sentencing Project. For research on the effects of jail incarceration on voting, see White, A. (2019) "Misdemeanor Disenfranchisement? The Demobilizing Effects of Brief Jail Spells on Potential Voters." *American Political Science Review*, 113(2): 311–324.
 9. *Richardson v Ramirez*, 418 U.S. 24 (1974).
 10. These recommendations are based, in part, on several recent reports on jail voting, including Porter, *Voting in Jails*; Jackson-Gleich, G. and Yearly, S.T. (2020) "Eligible But Excluded: A Guide to Removing the Barriers to Jail Voting." Prison Policy Initiative. https://www.prisonpolicy.org/reports/jail_voting.html; Campaign Legal Center (2019) "Challenging Jail-Based Disenfranchisement: A Resource Guide for Advocates." <https://campaignlegal.org/sites/default/files/2019-12/Jail%20Voting%20Advocacy%20Manual.pdf>; American Civil Liberties Union (2005) "Voting While Incarcerated: A Tool Kit for Advocates Seeking to Register, and Facilitate Voting By, Eligible People in

Jail.” <https://www.aclu.org/other/voting-while-incarcerated-tool-kit-advocates-seeking-register-and-facilitate-voting-eligible>

11. In *Locked Out 2022*, we describe illegal voting prosecution in Florida, Tennessee, Texas, and Minnesota.