

# **PUBLIC ATTITUDES TOWARD FELON DISENFRANCHISEMENT IN THE UNITED STATES**

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Since passage of the Voting Rights Act of 1965, debates about suffrage in the United States have largely shifted from questions about formal individual rights to participation to questions of fairness in the policy implementation of those rights. Prior to the Voting Rights Act, the disenfranchisement of African American voters provided a vivid example of persistent suffrage inequities in the American political system, and its passage was a landmark development in the struggles to extend the franchise to all citizens (Keyssar 2000). After the passage of the Voting Rights Act, however, concern over voting rights faded rapidly. As one authoritative treatment puts it, “at least since the voting rights reforms of the 1960s, political rights have been universalized in the United States. With relatively insignificant exceptions, all adult citizens have the full complement of political rights” (Verba, Scholzman, and Brady 1995, p. 11).

The apparently settled character of the right to vote and its disappearance from the scholarly and popular literatures on American democracy, however, is challenged by the rapid growth in incarceration and conviction rates within the criminal justice system over the past three decades (U.S. Department of Justice 2003). Election laws in most states bar felons and some ex-felons from voting, and it has been estimated that between 4.1 and 4.7 million Americans are currently disenfranchised due to a past or current felony conviction

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(Fellner and Mauer 1998; Uggen and Manza 2002).<sup>1</sup> Because virtually all incarcerated felons, and many nonincarcerated felons as well, are barred from voting, the size of the disenfranchised population has grown in tandem with the general expansion of the criminal justice system. Disenfranchised felons now constitute, by far, the largest group of Americans denied the franchise (Keyssar 2000, p. 302; National Commission on Federal Electoral Reform 2001). The United States is an outlier on the world scene, the only nation that currently disenfranchises large numbers of nonincarcerated felons (including a large group of *ex-felons* who have completed their sentences) (Ewald 2002; Manza and Uggen 2004).

The rapid growth in felon disenfranchisement in recent years has not gone unnoticed. A mounting civil rights campaign across the country has led a number of states to amend their laws to expand felon voting rights (Lampo 2002; Rapoport 2002). At the national level a measure banning the states from placing any restrictions on the voting rights of ex-felons reached the floor of the U.S. Senate in February 2002, where it was defeated on a 63-31 vote. Supporters of disenfranchisement have nonetheless succeeded in exerting sufficient pressure to encourage a number of states to adopt more *conservative* restrictions on the voting rights of felons in recent years. Overall, a very mixed picture thus emerges. One recent canvass of changes since 1975 finds that while 13 states have liberalized their laws, 11 states have passed further limitations on felons, and 3 states have passed *both* types of laws (Schiffman 2001; see also Kalogeras 2003).

To this point, these debates have unfolded with little concrete information available to policymakers about the views of the public.<sup>2</sup> We do, however, have good reasons to think that conflicts over felon disenfranchisement reflect an enduring tension in twentieth-century American political life: the clash between the desire to maintain social and political order versus the desire to extend civil rights and liberties to all citizens (McClosky and Zaller 1984; Sniderman 1996). Public fear of crime coexists alongside broad support for basic civil liberties, democracy, and a right to due process for those accused of crimes. Contemporary debates over disenfranchisement engage this important cleavage in ways that have yet to be examined.

In this paper we assess public attitudes toward laws disenfranchising felons and ex-felons. We analyze data from a national telephone survey conducted in

1. Currently, 48 states disenfranchise incarcerated felons, 37 states disenfranchise felony probationers or parolees (or both), and 14 states additionally disenfranchise some or all ex-felons who have completed their sentences (Fellner and Mauer 1998; Uggen and Manza 2002).

2. To be sure, there is a wealth of information about general attitudes toward crime and the criminal justice system and the desire of many citizens to punish criminal offenders harshly, but these attitudes are not directly related to the issue of voting rights. For a recent overview of public attitudes towards criminal justice issues, see Roberts and Stalans (2000). Pinaire, Heumann and Bilotta (2003) included a single item on a national survey asking respondents whether they supported extending voting rights to various categories of felon offenders.

July 2002, developing experimental variations in the framing or target group referenced by survey questions to see how such manipulations affect the level of support for voting rights for felons and ex-felons. To provide a context for understanding attitudes toward felon disenfranchisement, we compare them with attitudes toward other civil liberties for criminal offenders. We then conclude with a discussion of the implications of these findings for ongoing debates over felon voting rights.

## Data and Measures

### DATA

On July 18–22, 2002, as part of its regular monthly omnibus telephone survey, Harris Interactive asked a national sample of 1,000 adults 18 years of age or older a battery of questions that we designed regarding attitudes toward crime, punishment, and the civil liberties of criminals and ex-offenders. Telephone numbers were generated using a random digit dial (RDD) selection procedure to maximize the representation of persons in households within the 48 continental United States and the District of Columbia. The national sample was stratified by geographic region and by metropolitan versus nonmetropolitan residence; first states, then counties, then minor civil divisions were selected, with probability of selection proportional to the U.S. Census Bureau estimates of the population.

A telephone number was dialed at least four times before a new telephone number was generated for that area, and once a residential contact was established, the interviewer used the “youngest adult male/oldest adult female” procedure for selecting a respondent in the household for the interview. At least one additional callback was made to convert refusals. The interviews were conducted using a computer-assisted telephone interviewing (CATI) system. For the July survey the response rate using American Association for Public Opinion Research (2000) standard definition RR3 was estimated to be between 29.3 percent and 38.7 percent.<sup>3</sup>

### MEASURES

Our measurement of attitudes toward felon enfranchisement takes into account two sources of complexity: (1) the various statuses of convicted criminals as prisoners, probationers, parolees, or ex-felons, and (2) variability in the types of crimes committed by individual offenders. We seek to measure the effects of these variations on public attitudes through a series of question

3. Full details available from authors upon request.

wording experiments.<sup>4</sup> These experiments enable us to examine how specific references to target groups and other framing processes used by competing elites or other opinion leaders may affect public opinion concerning enfranchisement (Kinder 1998).

With regard to criminal status, we fielded four parallel survey items that employ similar question wording but vary the target group in question. As summarized in the appendix, these items constitute our first dimension of variation, asking respondents their level of support for enfranchisement of probationers, parolees, and prisoners. The two items that refer to probationers differ in two important ways: first, whether the items explicitly specify that probationers have *not* been imprisoned (*Probationer*<sub>2</sub>) versus whether the wording leaves this implicit (*Probationer*<sub>1</sub>); and second, whether the items enable respondents to endorse a “haven’t thought much about this” response (*Probationer*<sub>1</sub>) or not (*Probationer*<sub>2</sub>). The inclusion of the “haven’t thought much” response reduces the proportion of respondents selecting the primary “yes” or “no” response categories: for the *Probationer*<sub>1</sub> item, 15 percent choose the “haven’t thought much” response (with 1 percent volunteering “not sure/don’t know”), while only 8 percent of those asked the *Probationer*<sub>2</sub> item volunteered “not sure/don’t know.”<sup>5</sup> This suggests that even when encouraged to opt out of answering, most respondents are prepared to answer the question. The third and fourth items use the same format as the *Probationer*<sub>2</sub> item but refer respectively to parolees and currently incarcerated prisoners.

The assignment of the dimension 1 (correctional status) items to survey respondents—in both this set of experiments and the next described below—reflects a randomized design in which approximately one quarter of the total sample was asked a given item. This randomization facilitates comparisons by ensuring that, net of sampling error, observed differences in opinion are a product of the variable target group references reflected in the question wording.

The second dimension of dependent variables consists of four items that all refer to individuals convicted of a crime who have completed their entire sentence (ex-felons). These items were asked of respondents immediately following the first set of questions. As before, assignment of items reflects a full randomization (rather than a split-quarter design in which the same one-fourth of respondents received a specific pair of first- and second-stage questions). Whereas the *Baseline Ex-Felon* item makes no specific references to the crime committed, the *White-Collar Ex-Felon* item specifies the “illegal trading of

4. We note that question wording necessarily affects survey responses, and our reference to the “right to vote” may elicit positive considerations in the minds of respondents. Given the intrinsic connection of enfranchisement issues to voting rights, we believe this wording is appropriate, especially given the early stage of research and debate concerning the electoral status of felons. Nevertheless, we would encourage researchers to build from our results to experiment with further wording/framing of this policy issue.

5. The corresponding figures for the parolee and prisoner items are 7 percent and 8 percent respectively.

stocks,” the *Violent Ex-Felon* item refers to a “violent crime,” and the *Sex Crime Ex-Felon* item refers to “people convicted of a sex offense.” This variability enables us to evaluate whether Americans exhibit greater support for felon enfranchisement in the abstract (*Baseline Ex-Felon*), and, if so, whether support is also lower for violent criminals or those convicted of a sex crime in comparison to white-collar felons.

Two variables of further interest measure attitudes toward the criminal justice system and toward support for civil liberties, the latter of theoretical importance for related indicators of support for political rights in general. We measure these attitudes using a question about whether rehabilitation, punishment, or deterrence from committing future crimes represents the ultimate goal of prison.

Our *Baseline Civil Liberties* measure is one of the items fielded initially by Stouffer ([1955] 1963) and subsequently incorporated into the General Social Surveys. This item was asked of all survey respondents, and it provides a useful baseline insofar as its reference to speech by “somebody who is against all churches and religion” involves a different target group than criminals, and one that may be seen as potentially less threatening or controversial by respondents.

The next three items involve specific references to either the target group or content of speech involved in the expression of civil liberties. The *Ex-Felon Civil Liberties* item refers to someone whose prison sentence has been completed (without specifying the content of their speech). The *Ex-Felon/Legalization Activist* item refers to someone who has completed a sentence for drug dealing, further specifying “legalizing drugs” as the content of the speech in question. The *Legalization Activist* item also refers to a speech in favor of legalizing drugs, but it makes no reference to the status of the speaker as an ex-felon who had previously been convicted of selling drugs. These three items were randomly assigned to one-third of the sample, and they enable us to observe differences in respondents’ level of support for civil liberties across the four sets of conditions specified.

## Results

Do Americans support the enfranchisement of individuals convicted of crime, and does the level of public support vary depending upon the level of supervision or the specific nature of the crime? We begin our examination of these questions with the data presented in table 1. Entries in the top half of this table are sample proportions (standard deviations in parentheses) for dimension 1’s set of four enfranchisement items. As discussed earlier, assignment of items to survey respondents is randomized, and question wording varies primarily by the reference of items to *Probationers* (*Probationers*<sub>1</sub> leaves implicit the fact of nonprison status, while *Probationers*<sub>2</sub> makes this status explicit), *Parolees*, and *Prisoners*.

**Table 1.** Average Level of Support for Enfranchisement across Two Dimensions of Target Group Variation, 2002

	Sample Means (SD)
Target Group Dimension 1	
Probationer <sub>1</sub> ( <i>N</i> = 185)	.60 (.49)
Probationer <sub>2</sub> ( <i>N</i> = 209)	.68 (.47)
Parolee ( <i>N</i> = 222)	.60 (.49)
Prisoner ( <i>N</i> = 214)	.31 (.46)
Target Group Dimension 2	
Baseline ( <i>N</i> = 232)	.80 (.40)
White-Collar ( <i>N</i> = 239)	.63 (.40)
Violent ( <i>N</i> = 247)	.66 (.48)
Sex Crime ( <i>N</i> = 234)	.52 (.50)

NOTE.—Responses reflect random assignment of items to approximately one-quarter of the total sample.

Since these items are dichotomies with “1” reflecting support for enfranchisement and “0” reflecting no support, sample proportions for the first three items indicate majority support for allowing probationers and parolees the right to vote. Differences in question wording for the two probationer items initially suggest divergent levels of support, with the explicit clarification that probationers are not imprisoned yielding 68 percent support (versus 60 percent for the alternative probationer item). However, the 8 percentage point difference is not statistically significant (and the 8 percentage point difference between the second probationer item and the parolee item is also not significant).<sup>6</sup> The item referring to prisoners, however, reveals very different attitudes, with only 31 percent of respondents supporting that group’s enfranchisement. This suggests that while Americans may not penalize parolees for having served prison time once they are released from prison, they remain unwilling to extend voting rights to currently incarcerated offenders. Consistent with the policy approaches adopted by other countries that disenfranchise criminals, Americans appear to draw a similar distinction between imprisoned offenders versus those who are living in the community (regardless of whether the latter have completed their sentence).

We next consider a second source of potentially significant variability in public opinion: the specific type of criminal offense involved. In the bottom panel of table 1, we present estimates of the level of public support for ex-felon voting rights, exploiting the experimental design to compare across subsamples that received one of the second dimension’s set of four

6. The *t*-score for comparing these two proportions is -1.35, under the critical 1.96 value for rejecting the null hypothesis ( $\alpha_{.05}$ , 2-tailed test).

items: *Baseline Ex-Felon* (no reference to the specific crime); *White-Collar Ex-Felon* (convicted of “illegal trading of stocks”); *Violent Ex-Felon* (convicted of a violent crime); and *Sex Crime Ex-Felon* (convicted of a sex crime).<sup>7</sup>

The *Baseline Ex-Felon* item elicits the highest level of support for voting rights, with 80 percent endorsing enfranchisement. In contrast, reference to any of the specific types of criminal conviction results in lower levels of support, with 63 percent endorsing the enfranchisement of white-collar ex-felons, and 66 percent endorsing enfranchisement of ex-felons convicted of a violent offense. The 3 percentage point difference in sample proportions for the *White-Collar* and *Violent* items is not statistically significant ( $t$ -score = .69), but the larger differences between these items and the *Baseline Ex-Felon* item are significant at the .05 level ( $t$ -scores = 4.18 and 3.48). This suggests that the willingness of Americans to grant voting rights is shaped by whether a policy question is framed abstractly versus by reference to a specific criminal offense. Moreover, particularly high levels of support for the enfranchisement of generic ex-felons (80 percent) may overestimate support under the more realistic conditions in which political elites or the media make reference to particular crimes or criminals. Nevertheless, because levels of support for the enfranchisement of white-collar (63 percent) and violent (66 percent) ex-felons are very *similar* to the corresponding levels found earlier for probationers (61 percent and 67 percent) and parolees (62 percent), these results are very consistent with the inference that a majority of Americans support extending voting rights across a range of criminal statuses and felony convictions.

Of the criminal offenses referenced by our dimension 2 items, the item mentioning a “sex offense” elicits the least support for the extension of voting rights (52 percent). This contrasts significantly with the higher (66 percent) level of support for ex-felons convicted of a violent crime ( $t$ -score = 3.13), attesting perhaps to the special stigma or perceived threat associated with sex offenders (Brown 1999; Jenkins 1998). While it would be informative to know whether additional specificity in the framing or description of sex offenses might further reduce support for extending the franchise, we note that sex offenders constitute a modest proportion of current prisoners and ex-felons.<sup>8</sup>

7. We emphasize that these four items all refer to *ex-felons* (i.e., individuals who have served their entire prison sentence); the earlier results suggest low levels of public support for currently incarcerated individuals, and this second set of items thus enables us to probe further how variability in the details of ex-felons' criminal convictions may affect individual attitudes.

8. In 2001 there were an estimated 386,112 offenders in state sex offender registries, representing 6 percent of the 6.6 million persons under correctional supervision (U.S. Department of Justice 2001, 2002). In 1994 approximately 234,000 offenders convicted of rape or sexual assault were under correctional supervision, with about 60 percent serving sentences in the community (U.S. Department of Justice 1997).

**Table 2.** Average Level of Support for Generic Civil Liberties, and Civil Liberties for Ex-Felons and/or Controversial Speech, 2002

Baseline ( <i>N</i> = 990)	Ex-Felon ( <i>N</i> = 336)	Ex-Felon/Legalization Activist ( <i>N</i> = 329)	Legalization Activist ( <i>N</i> = 329)
.82 (.39)	.85 (.36)	.72 (.45)	.72 (.45)

NOTE.—Numbers in columns are sample means (standard deviations in parentheses); the generic civil liberties item was asked of all respondents, and the targeted civil liberties items were randomly assigned to approximately one-third of the total sample.

Taken together, these considerations imply that the strategic targeting of categories of offenders, as opposed to blanket claims about all offenders, influences responses far more than previously acknowledged. For example, six of the eight enfranchisement items suggest a clear majority in support of voting rights, and a seventh item elicits a slim (52 percent) majority. Only voting rights for currently incarcerated offenders are opposed by a (significant) majority. Given these results, an important subsequent question is whether Americans support the civil liberties of criminal offenders in a similar fashion. We investigate this issue in greater detail by presenting in table 2 sample proportions and standard deviations for the four civil liberties items.

The first item in this table, the baseline civil liberties item, was asked of the entire sample, whereas the other three items were randomly assigned to approximately one-third of respondents. Civil liberties support is high using the generic item (82 percent), and the ex-felon item yields a similar figure (85 percent). Comparing the sample proportions of the ex-felon versus ex-felon/legalization activist items is instructive because the latter further specifies a particular type of criminal offense (“selling drugs”) and the specific content of speech involved (“legalizing drugs”). Given negative views of drug dealers as well as likely expectations of threat stemming from drug-related activities, the 72 percent endorsement of the pro-civil liberties position on this item provides *prima facie* evidence of Americans’ willingness to extend civil liberties to criminal offenders.

The indistinguishable sample means for the third and fourth items (72 percent) provide additional evidence that slightly lower levels of civil liberties support are linked to the controversial or threatening aspects of speech rather than to the criminal status of the speaker. While the third item identifies the speaker as an ex-felon convicted of drug dealing, the fourth item makes no reference to the identity of the speaker. Such results indicate that although civil liberties reasoning among the American public is likely to involve some evaluation of the legitimacy or expected effects of speech itself, these processes nevertheless appear to operate amid a background of substantial support for civil liberties.

**Discussion**

Stripping citizens who receive a felony conviction of the right to vote—sometimes for life—is a harsh penalty in a democratic society characterized by universal suffrage. Indeed, taking away the right to vote for life is analogous, some commentators have suggested, to the medieval practice of “civil death,” where severe violations of the social contract led to complete loss of citizenship rights (Ewald 2002).

This paper has presented survey data bearing directly on these issues. In general, we find evidence that a civil liberties view prevails over a punitive view that would deny political rights to nonincarcerated felons. For all categories of felons who are not currently in prison, relatively large majorities (between 80 percent in the case of generic ex-felons and 52 percent in the case of former sex offenders) favor enfranchisement. Additionally, we find evidence that between 60 and 68 percent of the public believes that felony probationers, who make up a full one-fourth of the disenfranchised felon population, should have their voting rights restored. Moreover, 60 percent support voting rights for parolees (who have been released from prison), and 66 percent support voting rights for even ex-felons convicted of a violent crime who have served their entire sentence.

From a methodological standpoint, it is significant that the American public appears to draw distinctions based upon target group characteristics, supporting the view that real cognitions, rather than social desirability or random guessing, are likely underpinning the survey responses we have observed. From a theoretical standpoint, these results convey a notably consistent picture of target group distinctions operating amid a background of strong support for voting rights for the majority of criminal offenders. With regard to ongoing policy debates, the findings suggest little support for the assumption that the American public consistently supports the disenfranchisement of felons and ex-felons who are not currently incarcerated.

**Appendix**

**Table A1.** Variables in the Analysis

Items	Questions Wording (coding)
<i>Enfranchisement Items—Target Group Dimension 1:</i>	
<i>Probationer<sub>i</sub></i>	There has been some discussion recently about the right to vote in this country. Some feel that people convicted of a crime who are sentenced to probation and are living in the community should have the right to vote. Others feel that they should not have the right to vote. What about you? Do you think people on probation should have the right to vote? Or haven't you thought much about this? (0 = no; 1 = yes)

**Table A1.** (Continued)

Items	Questions Wording (coding)
<i>Probationer<sub>2</sub></i>	There has been some discussion recently about the right to vote in this country. Some feel that people convicted of a crime who are sentenced to probation, but not prison, and are living in the community should have the right to vote. Others feel that they should not have the right to vote. What about you? Do you think people on probation should have the right to vote? (0 = no; 1 = yes)
<i>Parolee</i>	There has been some discussion recently about the right to vote in this country. Some feel that people convicted of a crime who have been released from prison on parole and are living in the community should have the right to vote. Others feel that they should not have the right to vote. What about you? Do you think people on parole should have the right to vote? (0 = no; 1 = yes)
<i>Prisoner</i>	There has been some discussion recently about the right to vote in this country. Some feel that people convicted of a crime who are in prison should have the right to vote. Others feel that they should not have the right to vote. What about you? Do you think people in prison should have the right to vote? (0 =no; 1 = yes)
<i>Enfranchisement Items—Target Group Dimension 2:</i>	
<i>Baseline</i>	Now how about people convicted of a crime who have served their entire sentence, and are now living in the community. Do you think they should have the right to vote? (0 = no; 1 = yes)
<i>Ex-Felon</i>	
<i>White-Collar</i>	Now how about people convicted of the illegal trading of stocks, who have served their entire sentence, and are now living in at the community. Do you think they should have the right to vote? (0 = no; 1 = yes)
<i>Ex-Felon</i>	
<i>Violent Crime</i>	Now how about people convicted of a violent crime, who have served their entire sentence, and are now living in the community. Do you think they should have the right to vote? (0 = no; 1 = yes)
<i>Ex-Felon</i>	
<i>Sex Crime</i>	Now how about people convicted of a sex offense, who have served their entire sentence, and are now living in the community. Do you think they should have the right to vote? (0 = no; 1 = yes)
<i>Ex-Felon</i>	
<i>Other Items:</i>	
<i>Criminal</i>	Once people who commit crimes are in prison, which one of the following goals do you think should be the most important goal of prison? Rehabilitation of criminals so they do not commit future crimes; punishment for their crime; deter them from and others from committing similar crimes? (categorical: reference = rehabilitation)
<i>Justice</i>	
<i>Baseline Civil</i>	There are always some people whose ideas are considered bad or dangerous by other people. For instance, somebody who is against all churches and religion. If such a person wanted to make a speech in your city or town against churches and religion, should that person be allowed to speak or not? (0 = no; 1 = yes)
<i>Liberties</i>	

**Table A1.** (Continued)

Items	Questions Wording (coding)
<i>Ex-Felon Civil Liberties</i>	How about someone who served a prison sentence and is now living in the community. If such a person wanted to make a speech in your city or town against prisons, should that person be allowed to speak or not? (0 = no; 1 = yes)
<i>Ex-Felon/Legalization Activist Civil Liberties</i>	How about somebody who served a prison sentence for selling drugs and is now living in the community. If such a person wanted to make a speech in your city or town in favor of legalizing drugs, should that person be allowed to speak or not? (0 = no; 1 = yes)
<i>Legalization Activist Civil Liberties</i>	How about somebody who wanted to make a speech in your city or town in favor of legalizing drugs. Should that person be allowed to speak or not? (0 = no; 1 = yes)

NOTE.—Data are from the Harris Interactive Omnibus Telephone Poll, July 18–22, 2002.

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