5 US Disenfranchisement and Re-Enfranchisement Explained

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To explain how disenfranchisement works in the United States, it is helpful to set the stage using a particular case before proceeding to a broader discussion to describe the history, scope, impact, and contemporary legal status of the restriction of voting rights for people with criminal convictions.

We begin in a tense Minneapolis courtroom in 2014, where a half-dozen defendants, all described as "model probationers", were being tried on new felony charges. Their crime? Illegal voting. Such charges are hardly empty threats. In March 2018, Crystal Mason, a Texas woman who was serving time on supervised release at the time of the 2016 election, was sentenced to five years in prison simply for casting her ballot on Election Day. Like Ms. Mason, these defendants did not sell their votes or stuff the ballot box; they just arrived at their polling place and cast ballots like any other citizen. They were facing felony charges because in half the US states it is illegal to vote while serving a probation sentence in the community, and voting under such circumstances is a crime punishable by fines, imprisonment, or both.

The discussion that follows shares and updates some of the testimony the first author presented on their behalf: that race played a big role in passing US felon disenfranchisement laws, that 4.6 million people are now affected by these laws, that 68% of Americans think people on probation should have a right to vote, that former felons who vote are less likely to commit new crimes, and that, to our knowledge, no other democratic nation routinely disenfranchises a large class of non-incarcerated people convicted of crimes. The prosecutor concurred with the testimony and questioned the law. He even offered to accompany the defence team to the state legislature to help bring about its repeal[1]. But – and this is an important "but" – until the felon voting ban is lifted, the prosecutor stated, the law is clear and these defendants had violated it. The combination of a simple match of probation records and voting records and their signed probation agreements, which stated they were not eligible to vote while on supervision, was enough to establish their guilt. According to Minnesota Statute 204C.14, which regulates unlawful voting, "the signature of an individual on a polling place roster or voter signature certificate is prima facie evidence of the intent of the individual to vote at that election". The judge denied the defendants' motion to dismiss the charges and, as we describe below, several ultimately received additional probation time.

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Who are these defendants and what happened to them after the trial? The first two authors of this chapter looked at 243 unlawful voting convictions and 134 registering while ineligible convictions in the state of Minnesota from 2000 to 2019 (a full 147 of them occurred in the wake of the 2008 election). About 32% of the illegal voters are women and 38% are Black. Most had been on probation for many years, including one man who had served nine years and ten months of his ten-year probation sentence – before he caught a new felony for voting. The crimes that typically *put* them on probation were not murder, rape, and robbery, but drug possession, theft, check forgery, and violation of public assistance rules.

In short, the picture painted by the statistics is one of low-level property and drug crimes committed by people in poverty. Their sentences ranged tremendously, though on average they received 23 months of probation, 27 days of jail time, and $278 in fines for voting illegally. Typically, their sentences involved an extension of probation and, hence, further disenfranchisement. While it was disheartening and even surreal to see the machinery of justice brought to bear on the "crime" of voting, prosecutorial discretion is hardly the root cause of the problem. The laws are as old as the nation, but the harshest disenfranchisement restrictions emerged in the aftermath of the Civil War and Reconstruction era, when Black men gained the right to vote[2]. Since the civil rights era of the 1960s and 1970s, states have been paring back the harshest laws, successfully restoring the vote in at least ten states from 2020–2023 (Uggen, Schneider, Larson, & Stewart 2023). Today, US disenfranchisement laws and policies are often confusing for both voters and government officials, a problem exacerbated by incomplete or inaccurate criminal history information (see, e.g., Lageson & Stewart 2023) and voting records.

In Minnesota, many such challenges to disenfranchisement had been tried and failed over the decades. In March 2023, the state legislature finally passed, and Minnesota Governor Tim Walz signed, the Restore the Vote Act, which re-enfranchised 48,000 people serving probation and parole sentences. This means that people on probation and parole supervision will no longer be subject to the courtroom scene that unfolded in Minneapolis that day. Nevertheless, approximately 10,000 people in Minnesotan prisons – and an estimated 4.6 million with felony convictions nationwide – remained disenfranchised as of 2022 (Uggen, Larson, Shannon, & Stewart 2022).

Who Is Disenfranchised?

The United States will soon celebrate the 60th anniversary of the Voting Rights Act of 1965, which outlawed discriminatory voting practices and effectively enfranchised millions of Americans who had been barred from voting. Nevertheless, disenfranchisement persists in the form of felony voting restrictions. This chapter briefly reviews research on the political life of people convicted of felonies in the United States. After describing who is disenfranchised, we discuss the origins of strict US felony voting laws, their political impact, and public opinion on the practice, with a particular focus on the recent restoration of voting rights for

non-incarcerated people. We then consider how prison experiences may shape conceptions of citizenship and democracy after release.

As illustrated in Table 5.1, people in US prisons are currently denied the right to vote in 48 of the 50 states. Maine and Vermont, small and overwhelmingly white states in the nation's Northeast, remain the only two states in which prison residents may vote (although people in prison retain voting rights in Washington, DC, and the Commonwealth of Puerto Rico). The states are arrayed top to bottom from the least restrictive to most restrictive policies, with asterisks indicating a significant change in law or practice since 2016.

As of this writing, 23 states restrict voting rights for prisoners, but permit non-incarcerated people to vote while "on paper", or under probation or parole supervision. Ten of these states, including the populous states of California and New York, have recently restored the vote for people currently under community supervision. The most recent additions to this category are Minnesota and New Mexico in 2023.

The United States is rare amongst democracies for disenfranchising people who are not currently incarcerated, as is currently the practice in 25 states. Fourteen such states restrict voting rights while people remain "on paper" under probation or parole supervision. An additional 11 states maintain "post-sentence" restrictions that disenfranchise some or all people who have completed their sentences and are "off paper". Many of these states have passed laws to narrow such restrictions since 2016, and several state governors have used their pardon authority to restore civil rights to some portion of the post-sentence group.

Table 5.1 Summary of state felony disenfranchisement laws, August 2023

Group Disenfranchised	*States*
None (2)	Maine, Vermont
Prison (23)	California*, Colorado*, Connecticut*, Hawaii, Illinois, Indiana, Maryland, Massachusetts, Michigan, Minnesota*, Montana, Nevada*, New Mexico*, New Hampshire, New Jersey*, New York*, North Dakota*, Ohio*, Oregon, Pennsylvania, Rhode Island, Utah, Washington*
Prison, Parole, and Probation (14)	Alaska, Arkansas, Georgia, Idaho, Kansas, Louisiana*, Missouri, North Carolina**, Oklahoma, South Carolina, South Dakota, Texas, West Virginia, Wisconsin
Prison, Parole, Probation, and Some or All Post-Sentence (11)	Alabama*, Arizona*, Delaware*, Florida*, Iowa*, Kentucky*, Mississippi, Nebraska, Tennessee, Virginia*, Wyoming*

* Indicates significant change in disenfranchisement practices since 2016.

** In 2022, a North Carolina state court upheld the ruling of a three-judge panel that had restored the vote to people on probation and parole in 2021. In April 2023, the North Carolina Supreme Court overturned the trial court decision, again disenfranchising people on community supervision in that state.

Voting rights that are contingent on the good graces of the state governor, however, can be precarious or fleeting. In Kentucky, for example, Governor Andy Beshear issued an executive order in November 2015 restoring voting rights to those who had completed their sentences for nonviolent offences. This order was quickly rescinded in December of that year when Matthew Bevin was elected governor. Then, in 2019, Governor Stephen Beshear issued another executive order restoring the vote to this group. The seeming arbitrariness of disenfranchising a voter who completed their sentence in 2017 – but not one who left supervision in 2015 or in 2022 – harkens to an era in which kings could grant or rescind citizenship rights with a simple thumbs up or thumbs down (see, e.g., Wines 2023).

Rights restored through state court decisions or ballot initiatives may also prove fleeting. In 2022, a North Carolina state court upheld a three-judge panel's ruling that had restored the vote to people on probation and parole the previous year. In April 2023, however, the North Carolina Supreme Court overturned the trial court decision, rejecting arguments about racial discrimination and again disenfranchising people on community supervision in that state. The 5-2 decision fell along party lines, with the Republican-majority court concluding,

> Our state constitution ties voting rights to the obligation that all citizens have to refrain from criminal misconduct […] it denies individuals with felony convictions the right to vote unless their citizenship rights are restored […] This case is therefore not about whether disenfranchisement should be a consequence of a felony conviction. The state constitution says that it must be, and we are bound by that mandate.[3]

Regarding ballot initiatives, voters passed Amendment 4 to the Constitution of Florida by ballot initiative in November 2018, which should have allowed most people who have completed their sentences to vote (with the exception of those convicted of murder and certain sex offences). In 2019, however, the Florida legislature passed and the Governor signed Senate Bill 7066, restricting voting rights for people who had not paid court-ordered monetary sanctions, and effectively "re-disenfranchising" the majority of those whose rights were restored by Amendment 4. Nevertheless, when voting rights have been restored through state legislative action, as is more commonly the case today, voting rights restoration has generally proven more durable.

In much of the world, public debate on felonies and voting centres on whether people currently incarcerated in prison can vote or hold office. As Table 5.1 and Figure 5.1 show, this is hardly the case in the United States.

In stark contrast to virtually every other nation, the United States disenfranchises millions of *non*-incarcerated people with felony convictions (Chowdury, 2017; Manza & Uggen, 2004; Uggen, Van Brakle, & McLaughlin, 2009; also see Chapters 1, 2, and 3*)*. As illustrated in Figure 5.1, people in prison only account for about one-fourth of the total US disenfranchised population.[4] Another 28% are currently serving probation (21%) or parole (7%) sentences, but the largest share of the disenfranchised remains those with post-sentence restrictions. In such states,

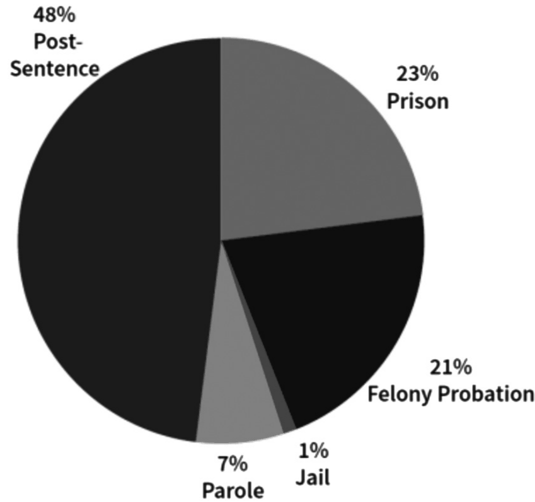

Figure 5.1 Disenfranchisement by supervisory status, 2022

people remain disenfranchised for sentences that were completed several decades ago, such that a person convicted of a drug crime in Mississippi in the 1960s (or 1970s, or 1980s, or anytime since) remains disenfranchised to this day. All told, an estimated 4.6 million Americans were disenfranchised due to a felony conviction in 2022, representing about 2.0% of the nation's eligible voting population (those 18 years of age or older). These estimates are based on the 2022 Sentencing Project report (Uggen, Larson, Shannon, & Stewart), though both felon disenfranchisement law and correctional populations have eased in some states since then.

The 2022 disenfranchisement rate exceeded 8% of the total adult population in 3 states (Alabama, Mississippi, and Tennessee), though it was less than 0.5% in 19 other states. To visually display such differences, the cartogram in Figure 5.2 adjusts state boundaries for the disenfranchisement rate. The Southeastern region of former slave states appears bloated in the map, while most Northeastern and Midwestern states shrink. These state differences are driven by two factors: the size of each state's correctional populations (which vary greatly) and the strictness of each state's disenfranchisement regime (whether they only disenfranchise people currently in prison or whether voting bans extend to people on probation, parole, and those who have finished their sentences).

The disenfranchised population has expanded rapidly over the past five decades of racialised mass incarceration, as shown in Figure 5.3 (Uggen, Larson, Shannon, & Stewart 2022). In 1960, an estimated 1.7 million people were disenfranchised due to felony convictions, a number that declined as protections for voting rights were enhanced during the civil rights era. Nevertheless, the overall number of people affected by felon voting bans continued to rise from 1980 to 2016. This increase, of course, was due to the unprecedented growth in American correctional

Figure 5.2 Cartogram of state disenfranchisement rates, 2022

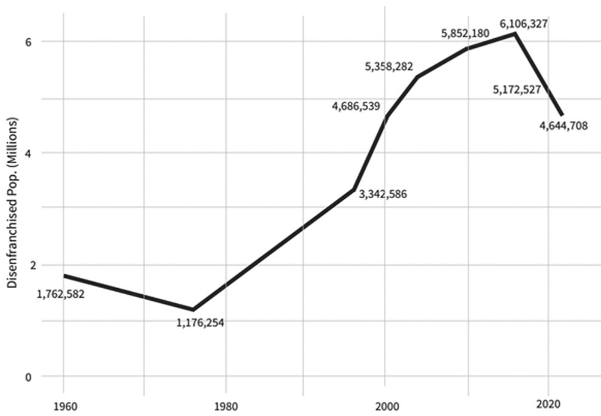

Figure 5.3 Total disenfranchised due to felony convictions, US 1960–2023

populations during the "mass incarceration" and "mass probation" era from 1975 to 2010 (see, e.g., Phelps, 2013; Manza & Uggen, 2006; Schiraldi, 2023).

The total number of people disenfranchised due to felonies rose from 3.3 million in 1996 to 6.1 million in 2016. The total disenfranchised population had dropped to 4.6 million by 2022, as correctional populations had begun to decline and states more aggressively pared back voting restrictions. During the Civil Rights era of the 1960s and 1970s, legislative and gubernatorial partisanship was not a dominant factor in the passage of such legislation (see Behrens, Uggen, & Manza, 2003; Manza & Uggen, 2006), in part because Democratic leaders were reluctant to appear "soft on crime" (Mendelberg, 2001). In recent years, however, voting rights restoration laws have been far more likely to pass in states led by Democratic governors and legislatures (Uggen, Schneider, Larson, & Stewart, 2023). As a result

of those trends, more than 1.5 million people have regained the right to vote since 2016. Today, an estimated 4.6 million Americans are disenfranchised by virtue of a felony conviction, or roughly the number of US voters disenfranchised in the 2000 presidential election – a closely contested election that drew national attention to the disenfranchisement of people with felony-level criminal records in Florida and across the country (Uggen & Manza, 2002; Burch, 2012; Klumpp, Mialon, & Williams, 2019).

Political Impact

Although the overall size of the disenfranchised population in the United States is large (4.6 million) and represents about 2% of the nation's voting-age population, it is difficult to answer the counterfactual question of whether and how they might vote in elections. Uggen and Manza (2002) present statistical models suggesting that the turnout rate would be significantly lower amongst people with and without felonies. This is primarily due to differences between these groups in factors such as education levels and residential stability. Their models suggest a turnout rate of approximately 24% in US Senate elections and 35% in presidential races. It should be noted, however, that rates of participation would likely be higher if state justice institutions and election offices made greater efforts to encourage voting amongst those who are eligible. Officials in many other nations undertake such efforts, and some US states are beginning to do so.[5]

Due to the race and class distribution of criminal justice populations, early studies suggested that voters with felonies would lean more toward the Democratic than the Republican parties. This is partly a function of the extreme racial inequities in US punishment, which dilutes the Black vote, and the strong preferences for Democratic candidates amongst Black voters. Uggen and Manza (2002) estimated that about seven of every ten votes cast by people with felony convictions would likely have gone to Democratic candidates from 1972–2000, although more recent estimates put both the turnout and partisan preference figures somewhat lower (Burch 2011). Some research suggests that people with felony-level records express support for liberal or progressive policy positions, but may also favour charismatic "outsider" candidates, such as the former professional wrestler Jesse Ventura (Manza & Uggen, 2006, p. 124). A Trump-era non-representative survey of 8,000 prison residents reported that most white respondents self-identified as Republicans or independents, but most Black respondents identified themselves as Democrats or independents (Lewis, Shen, & Flagg, 2020).

Given its size, turnout, and partisan preferences, the disenfranchised population is likely to have affected election outcomes. Uggen and Manza (2002) find that even if only people disenfranchised post-sentence had been allowed to vote, the Republican victory in the 2000 Presidential election would likely have been reversed, and Democrat Al Gore would have defeated Republican George W. Bush. They also identify several key US Senate elections that may have been overturned if this group had been able to vote. Although it is difficult to draw firm inferences from this sort of counterfactual analysis, the cumulative impact of these reversals

could well have shifted the balance of US political power in the 1980s and 1990s (Uggen & Manza, 2002). It seems safe to conclude that felony disenfranchisement may have provided a small advantage to many Republican candidates throughout the mass incarceration era. This is particularly the case for closely contested national elections, where the margin of victory is often very small. It has also likely affected local elections, although the margin of victory is typically wider in these contests. In Maine and Vermont, the two US states in which people in prison can vote, they vote by absentee ballot from the place they last lived, rather than as residents of the town that houses the prison (see, e.g., Lewis, 2019). This practice effectively addresses concerns that their votes would somehow sway local elections. Apart from the relatively narrow question of particular election outcomes, Miller and Stuart (2017) have argued that the broad reach of the criminal justice system has fundamentally recast the notion of citizenship, resulting in a rising number of "carceral citizens" or "second-class citizens" (Lerman & Weaver, 2020).

Racist History of US Disenfranchisement

The practice of restricting the citizenship rights of lawbreakers has ancient origins, with Athens and other Greek city-states imposing the status of *atimia*, which rescinds the right to participate in the polity. In ancient Rome, a similar status of *infamia* was assigned, based on the violator's class of citizenship. In medieval Europe, "civil death" erased the citizenship rights of transgressors and effectively marked them as "outlaws". This "civil death" model carried over to parts of modern criminal law, as the English penalty of attainder could, in its more extreme forms, encompass the loss of all of one's civil liberties, including the right to vote (Manza & Uggen, 2006).

Some form of felon disenfranchisement or "civil death" has been practised in the United States since colonial times. Many of these early penalties were only imposed for specific crimes, however, and only for limited periods. The practice of restricting voting rights for a large "felon" class, without regard for the underlying criminal act, was not established until the 19th century. Research on the passage of felony voting restrictions shows that states were especially likely to pass restrictive legislation during the post-Civil War and Reconstruction eras from the late 1860s through the 1880s (Behrens, Uggen, & Manza, 2003), when 17 states instituted felon voting bans. Many such laws were pared back or repealed during the civil rights era of the 1960s and 1970s, and particularly in the recent period from 2016–2023 (Uggen, Schneider, Larson, & Stewart, 2023).

In the United States, both felony voting bans and their repeal are inextricably tied to racial conflict. As is the case today, African Americans were significantly more likely to be disenfranchised in the 1800s. Behrens, Uggen, and Manza (2003) show that the racial composition of people in prison was closely correlated with passage of felon voting restrictions, particularly after 1870 when African-American males gained the right to vote. Therefore, many now attribute US disenfranchisement to "racial threat" and a desire to quell the political voices of newly emancipated African Americans (Alexander 2010).

Even after other voting restrictions fell after the Voting Rights Act of 1965, felon disenfranchisement laws have persisted, surviving repeated constitutional challenges. As Figure 5.4 makes clear, more than one in ten Black adults is disenfranchised in eight states – Alabama, Arizona, Florida, Kentucky, Mississippi, South Dakota, Tennessee, and Virginia. In 2022, the overall Black disenfranchisement rate was about 3.5 times the rate for the non-Black population: approximately 5.3% of the Black voting age population was barred from voting due to a felony conviction, relative to about 1.5% of the non-Black voting age population.

Again, however, these overall US percentages mask tremendous variation across the states in the rate, demographic characteristics, and political impact of disenfranchisement. Race and ethnicity have not been consistently reported in US criminal justice data, so our ability to construct detailed race- and ethnicity-specific estimates is limited. Nevertheless, as part of a report for the Sentencing Project, Uggen, Larson, Shannon, and Stewart (2022) created state-specific disenfranchisement estimates for the Black and Hispanic populations in 2022.

Data limitations are especially problematic for the Latinx population, who now make up about 19% of the overall US population, but similar problems arise in estimating disenfranchisement rates for Asian Americans, American Indians, and other groups. Although data on ethnicity in correctional populations are unevenly reported and undercounted in some states, a conservative estimate based on the data available is that at least 506,000 Latinx Americans or 1.7% of the voting-eligible population are disenfranchised (Uggen, Larson, Shannon, & Stewart, 2022). In Arizona and Tennessee, over 6% of Latinx voters are disenfranchised due to felony-level convictions.

Public Sentiment

Although many states and many nations have repealed or loosened voting restrictions over the past century, politicians remain wary of repealing felon

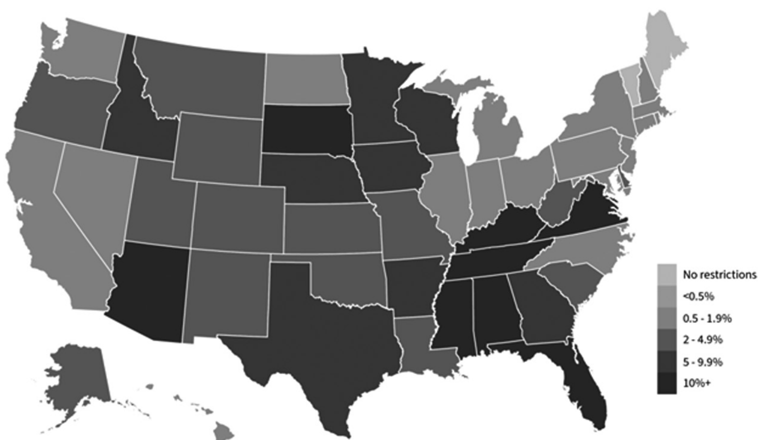

Figure 5.4 Black felony disenfranchisement rates as percent of voting-age population, 2022

disenfranchisement, in part because they fear that appearing "soft on crime" will cost them votes with a punitive electorate (Mendelberg, 2001). As one politician remarked to the first author, it is much easier for tenured professors to demonstrate "courage" on potentially unpopular issues than it is for legislators who must run for office every two years.

That said, repealing voting bans on non-incarcerated people with felonies is likely to be popular with the electorate, rather than unpopular. The first nationally representative US poll conducted on the subject (Manza, Brooks, & Uggen, 2004) found that 80% of Americans favoured restoring voting rights after people had served their sentences, and majorities favoured restoration for people serving both probation (68%) and parole (60%) sentences. This study found that Americans appeared to make a clear distinction between those currently imprisoned and those who have returned to the community; however, as only 31% supported voting rights for people in prison. Nevertheless, a 2022 survey showed much greater support for full restoration to those who are completing sentences, whether they resided inside or outside of prisons (Sentencing Project, 2022). These discrepancies may be due to differences in methodologies, but there is also increasing evidence that US public attitudes have grown more punitive in the past two decades (see, e.g., Uggen & Larson, 2017).

Overall, according to the 2022 US Collaborative Midterm Survey, support for voting rights restoration is strongest amongst Black respondents, women, those aged 18–39, Democrats, and those with college degrees and higher incomes. These 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 out of step with contemporary public opinion. This is reflected by the results of Florida's 2018 ballot initiative, in which 65% of voters favoured restoring voting rights to those who completed the terms of their felony sentences (Morse, 2021).

Public opinion on voting bans also varies with the type and specificity of offence (Manza, Brooks, & Uggen, 2004). Although 80% percent support post-sentence re-enfranchisement when no specific offence is mentioned, this support drops to about two-thirds when the question posed references violent crimes and white-collar crimes. Not surprisingly, public support for re-enfranchisement is weakest for those convicted of felony-level sex crimes. Nevertheless, a slim majority (52%) favours restoration of voting rights even for this highly stigmatised group.

In short, Americans strongly support restoration of voting rights for people who completed their sentences, and to a lesser extent for those serving sentences in the community. Support for re-enfranchisement remains somewhat weaker, however, for those who are currently incarcerated. Although further research is needed to determine the motivations behind public support for re-enfranchisement, messages that emphasise "guaranteeing the right to vote" and "restoring the right to vote" appear to be more resonant with the public than more abstract appeals (e.g., to "universal suffrage") or messages emphasising racist practices ("ending Jim Crow voting bans") (Gotoff, Markowitz, Pugh, & Ferrentino, 2022).

Recidivism and Reintegration

As criminologists who study felony voting bans, we are often asked whether voting and disenfranchisement are likely to affect recidivism. Several criminological theories suggest that reinstating voting rights may enhance public safety. In particular, symbolic interactionist theories (Massoglia & Uggen, 2010) and social control theories (Sampson & Laub, 1993) link desistance from crime to age-graded transitions in work and family life.

More generally, writers such as Tocqueville and Mill (1977) have pointed to the potentially educative and constitutive impact of political participation. By this logic, voting can engender some degree of identification with the polity and its norms and values. Others highlight the expressive impact of voting and its potential to mould "virtuous" citizens. As Winkler (1993) argues, "voting is a meaningful participatory act through which individuals create and affirm their membership in the community and thereby transform their identities both as individuals and as part of a greater collectivity".

Researchers generally find a strong correlation between voting and law-abiding behaviour. 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 it is unclear whether eliminating disenfranchisement would reduce crime (see Gerber, Huber, Biggers, & Hendry, 2017), 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 – as well as participation in work and family life – is linked to success after people are released from prison (National Academies of Sciences, Engineering, and Medicine, 2022).

It certainly seems plausible to suggest that voting may help people with felony-level records engage the civic life of their communities, which, in turn, could reduce recidivism. To date, much of the research on this question has been correlational and ill-suited for establishing a causal relationship. Research in Minnesota finds clear negative correlations between voting and recidivism (Uggen & Manza, 2004). For example, approximately 16% of nonvoters in 1996 were arrested during the subsequent 3 years, relative to 5% of 1996 voters (Manza & Uggen, 2006). This relationship also holds when prior criminal history is accounted for, and when using self-report crime data in place of official arrest records. Multivariate analyses, however, suggest that at least some of the association between voting and recidivism is due to preexisting differences between voters and nonvoters. Although this research is clearly insufficient to make persuasive causal claims, the results suggest a link between political participation and desistance from crime.

Analysis of data from Oregon, where people may vote while they are on probation and parole supervision, shows a similar pattern in community corrections (Uggen, Inderbitzin, & Vuolo, 2007). Probationers and parolees who exercise their right to vote have significantly lower recidivism rates than those who do not. Probation failure rates drop from about 8%to 6%, and parole failures drop from 26% to 19%.

A third study finds a similar relationship amongst Minnesota prisoners released in 1990 (Uggen & Schaefer, 2006). We estimated Cox event history regression models to show the basic correlation between a time-varying voting indicator and recidivism, before adjusting this association for demographic characteristics, offence information, and post-release adjustment indicators. We found a strong association between voting and time until recidivism. When we include time served, property ownership, and the time-varying age and marriage measures, the key voting indicator remains a strong negative predictor of recidivism. After statistically controlling for the other variables in this basic model, the hazard of recidivism for voters is about .23 of the hazard of recidivism for non-voters. That is, the rate of new offences is 77% lower for those who voted in the previous biennial election relative to non-voters. This would represent a large effect, particularly relative to other factors such as marriage and property ownership. Again, we caution against making strong causal interpretations from these data, but it may be the case that voting is tapping a desire to participate as a law-abiding stakeholder in one's community (Uggen, Manza & Behrens, 2013). Practising citizenship, in turn, may help to reinforce an identity as a law-abiding citizen. Causal mechanisms that might link voting with subsequent crimes involve building and strengthening social bonds (e.g., Hirschi, 2017) and age-graded informal social controls (Sampson & Laub, 1993), which increase the reciprocal obligations between people and provide them with a stake in law-abiding behaviour.

Meaning

The experience of incarceration no doubt shapes individual conceptions of democracy and "carceral citizenship" (Miller & Stuart, 2017; see also Lerman & Weaver, 2020) or "anticitizenry" (Justice and Meares, 2014). While serving time in jail and prison, people often learn a great deal about politics, power, and compromise, which in turn may shape perceptions of democratic participation upon release. As we discuss below, the experience of punishment may increase some forms of political capital, political efficacy, and political engagement (see, e.g., Remster & Kramer, 2018), while diminishing others (see, e.g., Brayne, 2014; Lerman & Weaver, 2020).

Our team conducted a basic analysis of political trust and efficacy (Manza & Uggen, 2006) based on analysis of Youth Development Study data from Minnesota, a community sample that includes a relatively small proportion of respondents with an incarceration history. Like Lerman and Weaver (2014) and others, we observed a clear and statistically significant gradient: Those who have never been arrested express the greatest trust in government, political efficacy, confidence in criminal justice, and faith in public officials; those who have been incarcerated are least trusting and efficacious; and, finally, those who have been arrested but not incarcerated are situated between these two extremes. Similar gradients are also observed in other large-scale data sets (Lerman & Weaver, 2014).

Apart from the survey results, qualitative data show that the act of disenfranchisement can deliver a painful sting. In our interviews for *Locked Out* (Manza &

Uggen 2006), some prison residents likened the practice to "salt in the wound." We heard bewilderment as well as frustration in discussing the goals and purposes of felon disenfranchisement with people in prison, on probation, and parole. For example, Dylan, who had served over a decade in prison for a crime he committed at age 14, asked,

> What is the fear that someone who has committed a felony would actually have a voice?… we're going to have some organized crime guy running for office, and we're all going to get behind him? […]They have the expectation that you're going to reintegrate back into society, become a functioning, contributing member of society. But yet you're not allowed to have a say-so… which again makes no sense. The whole principle of our legal system is you pay your debt. Debt's done, you move on.

Paul, who had been convicted of a stigmatising sex offense, viewed felon voting restrictions as "taxation without representation."

> I have no right to vote on how my taxes is going to be spent or used, which I have to pay whether I'm a felon or not. …I'm not saying give back gun rights or anything like that … But giving back voting rights is another way to make a person feel part of that community… when they [say], "What are you going to give back to the community for this and for that?" I'm like well, hey, [the] community doesn't want a damn thing to do with me.

A third theme that emerged consistently in our interviews with Black and Native American people in prison and on community supervision concerned the racist origins and impact of disenfranchisement. Peter, a young man on probation, put it this way:

> I think that they just want less Blacks to vote… 'Cause 90% of peoples that's in jail, they's Black anyway, or on probation or whatever…. Less Black people to vote, you know? … When less of us vote, that's more for the other races to vote… We the most people that's overcrowding the jails so that's why I think it's a racial thing towards us… I mean, it's a white world…

Even in the absence of disenfranchisement, there is much evidence that imprisonment can suppress political participation (Lerman & Weaver, 2014). This finding is consistent with evidence on "system avoidance" (Brayne, 2014) and the scarring effects of some forms of welfare receipt on political participation (Swartz et al., 2009). On average, people who have been to prison or jail are less likely to see voting in elections as important, as reflected in the Minnesota Youth Development Study discussed previously.

Yet, when we look at civic participation more broadly, we observe that people with exposure to jail or prison *do* participate at relatively high rates in at least some civic organisations. Remster and Kramer (2018) also find that low-level criminal

justice contact is associated with activism, in the form of attending rallies and marches and contacting government officials. In our Youth Development Study data, formerly incarcerated people appear somewhat more active in sports teams, recovery groups, neighbourhood or block clubs, and ethnic organisations. In contrast, the formerly incarcerated were significantly less likely to participate in business or professional organisations than those who had never been to jail or prison. In addition, people with incarceration histories may be more likely to participate in the decision-making of these organisations.

People also practice democracy in prison, even when locked out of the voting booth. Inderbitzin, Cain, and Walraven (2016) have detailed how prison residents vote for club leaders, documenting 11 such organisations in their Oregon State Penitentiary research site. These include Narcotics Anonymous and Alcoholics Anonymous, a Lifers' Unlimited Club, a Veteran's Association, a Seventh Step reentry club, an Athletic club, a Toastmasters club, and clubs organised around Asian, African American, Latino, and Native American culture and identity. Participants gain leadership experience in such clubs, as well as in other programmes, peer-taught classes, and in prison work assignments.

Changing Law and Policy

Based on this research evidence, we can offer several suggestions for change. Most fundamentally, we believe that US states should move quickly to sever the tie between criminal convictions and voting rights. Restoring the vote would expand democracy, reduce racial disparities, support reintegrative efforts, and accord with national public sentiment and international standards.

Nationally, the trend over the past decade has been toward more inclusive legislation (Uggen, Schneider, Larson, & Stewart, 2023 – also see Dejean de la Batie, *Chapter 2*). Since 2020, at least ten states have amended their felon disenfranchisement policies to expand voter eligibility. As a result of those reforms, more than 1.5 million people have regained the right to vote since 2016. Building broad coalitions that include victim rights organisations, as well as district attorneys, sheriffs, police chiefs, and other local officials can encourage legislators to restore the vote. It is much more difficult for legislators to oppose reform efforts when victims and justice professionals stand united against disenfranchisement – and help convince legislators that the practice wastes time and resources and distracts them from their vital work.

Although many legal changes must necessarily occur at the state and federal levels, there is also an important part for county and municipal officials to play. Specifically, local actors can facilitate and protect the rights of eligible voters while they are incarcerated in jail. The vast majority of people held in local jails retain their voting rights. This is because 65% of the more than 600,000 people in US jails are being held prior to appearing in court (typically because they cannot post bail) and because most of those serving time have been convicted of misdemeanours that do not trigger the loss of voting rights (Porter 2020). Unfortunately, it remains extraordinarily difficult to exercise the right to register and vote in most jails, such

that even a short jail sentence significantly decreases the likelihood of voting in the next election (White, 2019).

There are diverse strategies to increase ballot access amongst eligible voters in jail and many successful models for doing so, both in the United States (Campaign Legal Centre, 2019; Porter, 2018; Jackson-Gleich & Yeary, 2020) and in the many democracies in which people in prison are eligible to vote. These include providing voter education, registration materials, and outreach programmes in jails; establishing permanent jail polling locations; enacting state requirements that sheriffs and elections officials provide ballot access to jailed voters; designating voter coordination responsibilities to jail or local elections staff; easing registration and identification requirements, so that jail identification cards or signed affidavits can be used when other forms of identification have been confiscated; and easing requirements for absentee voters more generally.

Where people regain their rights after incarceration, we encourage states to provide voting and registration materials as part of prison reentry programming, along with assistance in obtaining identification and driving licences. When people enter prison and community supervision, they are typically notified (verbally and in writing) of the conditions of their supervision and the rights and privileges that they will surrender. This often includes the right to vote, but also a dizzying array of other collateral sanctions (Uggen & Stewart, 2014). These warnings likely have a chilling effect on subsequent political participation, in part because people wish to avoid any chance of prosecution and in part because it is humiliating to be turned away at the polling place. We have even observed intimidating signs in county probation offices that send dire warnings about voting to people currently under supervision. For these reasons, it is crucial to notify individuals that they are now eligible to vote and to provide clear instructions and materials for doing so. This work is particularly urgent in the ten states that have restored rights for non-incarcerated citizens since 2020. In several such jurisdictions (including Minnesota), the state Department of Corrections and the Secretary of State's office are working in tandem to provide such materials as part of pre-release preparation.

Where more restrictive disenfranchisement provisions remain in place, we urge cessation of aggressive voter suppression against people with criminal records. People with criminal records have become the targets of aggressive high-profile prosecutions for voting while ineligible (Uggen, Larson, Shannon, & Stewart, 2022; Office of Governor Ron Desantis, 2022). As described above, we have testified on behalf of people charged with illegal voting in Minnesota, and there have been other notable prosecutions in Florida, Texas, Wyoming, Tennessee, and numerous other states. Because these highly publicised prosecutions can result in new felony convictions and multi-year prison terms, they are likely to have a chilling effect on political participation amongst eligible voters with criminal records. It is a tremendous waste of court and corrections resources to subject otherwise law-abiding people on community supervision to new felony charges simply because they voted. Prosecutorial discretion is often limited by statute in voting cases, but counties vary considerably in the extent to which they prioritise and punish citizens for voting. In Minnesota, as in other states, voting while on probation or parole had

been a felony, punishable by heavy fines, lengthy extensions of supervision, and incarceration.

Finally, we must grow the base of research evidence on the topic of disenfranchisement. National advocacy organisations and grass-roots coalitions led by justice-impacted people have led the way in expanding voting rights for people with criminal records. Yet scholars can also play an important part in advancing knowledge on disenfranchisement and re-enfranchisement (National Academies of Sciences, Engineering, and Medicine, 2022). Continued research is especially needed regarding voting and the civic reintegration of carceral citizens, the role of civic participation in post-release success, systematic studies of illegal voting prosecution, and analyses of the broader impacts of re-enfranchisement in states where people have regained the right to vote.

Conclusion

This chapter has presented a brief review of research on the political life of people disenfranchised because of felony convictions in the United States, focussing on our own work in this area. Despite recent attention to felon voting restrictions and the political life of people in prison across the United States, there is both a great need for understanding and a great opportunity to expand democracy for those whom we punish.

Notes

1. The prosecuting attorney said, "prosecutors in the State of Minnesota stand ready and willing and able to sit next to Counsel at that Legislative table and ask the professor at that Legislative table to make those arguments. But regrettably that's where these arguments have to be made rather than here... I do not agree with the policy, my office does not agree with the policy, but I don't get to write the Constitution." (*Minnesota v Winkel* [27-R-14-6309], District Court, Fourth Judicial District, Division I, Minneapolis).
2. In 1868, the Fourteenth Amendment (1868) and Fifteenth Amendment (1870) to the US Constitution (1868) granted Black men the right of citizenship. However, this did not always translate into the ability to vote. Black voters were systematically turned away from state polling places throughout the ensuing Jim Crow era.
3. *Cmty. Success Initiative v Moore*, 871 S.E.2d 510 (N.C. 2022).
4. Figures 1–4 are adapted from *Locked Out 2022* (Uggen, Larson, Shannon, and Stewart), and are used with permission from The Sentencing Project.
5. For example, the Office of the Minnesota Secretary of State provides fact sheets and websites to clarify voting and registration requirements (see, e.g., *Voting with a Criminal Record* [2023], https://www.sos.state.mn.us/elections-voting/register-to-vote/i-have-a-criminal-record/).

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