Reclaiming Democracy: Examining Disenfranchisement Laws and Policy Recommendations to Restore Voting Rights for Formerly Incarcerated People

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Reclaiming Democracy:
Examining Disenfranchisement Laws and Policy
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Submitted to
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by
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Abstract

This paper examines the disenfranchisement of formerly incarcerated people and the steps by which they can participate in civic society again. It delves into the history of these laws, both in the United States and abroad, and the philosophies behind disenfranchisement. It then uses Florida’s Amendment 4 as a case study in current debates surrounding voting rights. After a literature review on voting, it assesses the voting population inside prisons in states that allow it and includes policy recommendations for these states. This thesis also applies interventions from the literature review to reduce the cost for formerly incarcerated people. Ultimately, notifying people of their right to vote is the most cost effective and politically feasible policy to make a sizable difference in voter registration and turnout amongst formerly incarcerated individuals.

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**I. Introduction**

If Florida allowed formerly incarcerated people to vote in the 2000 presidential election, the world as we know it could be entirely different. President George W. Bush won Florida by such a small margin that even if only 10% of the 600,000 disenfranchised people cast a ballot, Vice-President Al Gore might have won the electoral votes in Florida and subsequently won the election.²

Disenfranchisement of formerly incarcerated people varies from state to state. In states like Kentucky, a person loses their ability to vote if convicted of a felony unless they petition the governor directly. In other states like Maine and Vermont and just recently the District of Columbia, incarcerated people can vote from inside prison walls. The wide range of rights afforded to those who have been convicted of felonies is indicative of the United States’ commitment to federalism.

While states have different rights, there are people who have been convicted of felonies who can vote in every state. But, they do not vote at the same rate as the general population. Sixty nine percent of eligible Americans were registered to vote in 2020.³ Less than 25% of eligible voters who have been convicted of a felony are even registered to vote, and the turnout number is likely much lower.⁴ Legally allowing previously incarcerated people to vote is the first

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¹ This paper uses many terms interchangeably to mean the same thing. Formerly or previously incarcerated people refers to those who have been released from prison but who were convicted of a felony. The term incarcerated people refers to those who are currently inside prison. This paper does not use terms like “felon” or “prisoner” and is committed to using people-first language.


step, but after this legal right is afforded there are still barriers keeping them from casting their ballot. The most important one is that many previously incarcerated people do not know that they actually can vote.

This paper will begin with background information on disenfranchisement and the history of different states’ laws. It will also detail the philosophies behind the policies, which date back to Ancient Rome. Florida Amendment 4 serves as a guide to the politicization and interest groups that play a role in the enfranchisement of formerly incarcerated individuals. The paper will analyze voting behavior and apply studies to previously incarcerated and incarcerated people. Analysis reveals that notifying people who are leaving prison of their ability to vote is a politically feasible and impactful way to lower the cost of voting for formerly incarcerated people.
II. Understanding Disenfranchisement: Background and Philosophies

Definition and Application of Disenfranchisement Law

Disenfranchisement is the policy behind laws that strip voting rights from people with past criminal convictions. While these laws punish people differently depending on their state, disenfranchisement exists across the United States as a whole. Disenfranchisement laws and the variance between them creates confusion and spreads misinformation. Some states allow people to vote behind prison walls, whereas others, effectively ban people from the polls forever. In 2016, there were four states– Florida, Iowa, Kentucky, and Virginia, that barred all formerly incarcerated people from voting even after the completion of their sentences.5 While all four states have since overturned these rules, disenfranchisement is still written in most of the states’ constitutions.6

While disenfranchisement exists in other countries, the United States stands alone in the number of disenfranchised citizens. As of 2010, approximately 2.5 percent of the US voting-age population is disenfranchised due to a current or former felony conviction.7 While many of these disenfranchisement laws seem neutral, their impact is felt disproportionately amongst communities of color. An estimated 28.5% of Black men, 16.0% of Hispanic men, and 4.4% of white men are expected to serve time at a State or Federal Correctional facility.8 The impact of these disenfranchisement laws directly affect communities of color. Due to the significant racial disparities in law enforcement practices and sentencing, communities of color face a disproportionate threat to their voting rights. Nationally, approximately one out of every 16

6 “Brief Felon Voting Rights.”
Black adults is disenfranchised. In seven states—Alabama, Florida, Kentucky, Mississippi, Tennessee, Virginia, and Wyoming— the disenfranchised population consists of more than 15% of Black adults. The growing Latinx population in the United States also experiences overrepresentation within the criminal justice system. Across nearly every state, Black, Latinx, and Native populations are disenfranchised at rates higher than both the general population, and their white counterparts.

**Philosophies of Disenfranchisement**

The United States is unlike many other countries in their practice of disenfranchising those who have been convicted of felonies. Most other democracies in the world allow people convicted of felonies the same voting rights as other citizens. There are a few countries that restrict voting rights for a specified amount of time once they complete their sentence, but only in cases where the person was convicted of a crime relating to voting. Germany and France only permit disenfranchisement when it has been imposed by a court order, contrary to many states in the US, where removing voting rights is the first step.

Many democratic countries actually permit their citizens who are in prison to vote. In the Czech Republic, Denmark, France, Israel, Japan, Kenya, Netherlands, Norway, Peru, Poland, Romania, Sweden and Zimbabwe, people are allowed to vote from inside prison walls. While countries have different sets of restrictions on voting criteria, the option is available to most incarcerated people. In Bosnia and Herzegovina, people inside prison can vote unless their

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11 “Vi. Disenfranchisement in Other Countries.”
crimes relate to the war in the wake of Yugoslavia’s collapse.\textsuperscript{12} In nations like Bulgaria, judges have the power to disenfranchise any person who was imprisoned for more than 10 years.\textsuperscript{13} In countries like Bulgaria, Luxembourg, the Netherlands, and Slovakia, some serious crimes can lead to disenfranchisement, but less serious crimes allow formerly incarcerated people to vote.\textsuperscript{14}

Some argue that disenfranchising formerly incarcerated people serves as an additional punishment for their criminal actions. Stripping people of their right to vote is a possible deterrent from committing crimes, although it is not proven to correlate with a decrease in criminal acts. Other people see disenfranchisement as a way to restore civil virtue. Proponents of disenfranchisement argue that they have ‘broken the social contract’ and have chosen to give up their right to participate in society.\textsuperscript{15} Many countries want to hold individuals accountable for their actions, and use the ability to vote as a tool to dissuade people from unwanted behavior.

Advocates for restoring the ability to vote focus on arguments about the importance of democratic participation and rehabilitation. Many believe that the right to vote is fundamental to a healthy democracy, and that disenfranchisement undermines the principles of equal representation and participation.\textsuperscript{16} Some advocates even argue that individuals who have committed crimes should have a say in the laws and policies that govern their lives and communities. The argument for rehabilitation also focuses on the reintegration of convicted people back into society. Advocates say that restoring voting rights to formerly incarcerated

\textsuperscript{13} “Prisoner Votes by European Country.”
\textsuperscript{14} “Prisoner Votes by European Country.”
people encourages civic participation and allows them to feel more involved in civil society, ultimately helping them to become more responsible citizens.17

Many scholars believe that franchisement should be a states’ issue. Some argue that states should have authority to make these decisions based on their unique circumstances and values. Other scholars suggest that different categories of offenses should result in different restrictions on voting. This could look like more restrictions on those who committed a violent crime, or someone who participated in election fraud. These varying policies between states range from allowing people to vote in prison to removing their rights indefinitely.

**Origin of Disenfranchisement Law**

While the roots of laws prohibiting individuals with criminal convictions from voting can be traced back to ancient times, the majority of contemporary felony disenfranchisement statues can be traced to the period following the Reconstruction era. In ancient Athens, only free male citizens were allowed to participate in the democratic process, excluding women, slaves, and foreigners.18 In the Roman Republic, citizens who were convicted of certain crimes, such as treason, could lose their voting rights. This practice was known as “civitas sine suffragio” meaning “citizen without the vote.”19

In the United States, disenfranchisement laws have a complex history. Initially, many states limited voting rights to white male property owners. Over time, these restrictions were gradually lifted for white men, however other groups such as women and African Americans continued to experience disenfranchisement.

17 Wilson, David C., TaLisa Carter, and Khalilah L Brown-Dean.
19 “How People Voted in Ancient Elections.”
The first provision banning previously incarcerated people from being able to vote in the United States was introduced in 1792 in Kentucky. On April 19, 1792, the Kentucky Constitution contained the first provision establishing felony disenfranchisement. The Constitution states, “Laws shall be made to exclude from… suffrage those who thereafter be convicted of bribery, perjury, forgery, or other high crimes and misdemeanors.” Though Kentucky was the first state that had disenfranchisement written into the constitution, Connecticut introduced the first law in 1818. By 1840, four states had implemented felony disenfranchisement policies. As the American Civil War unfolded, around 24 states had some form of policy or similar provision in their state constitutions, but only 18 of them actively disenfranchised the formerly incarcerated.

Reconstruction coincided with the post-Civil War constitutional amendments that extended voting rights to Black men. During this time, Southern states not only enacted felony disenfranchisement laws, but also devised additional mechanisms, including poll taxes, literacy tests, and grandfather clauses, with the aim of blocking Black voters’ access to the ballot. In 1868 the Fourteenth Amendment was ratified, establishing civil rights and legal protections to all citizens, particularly African Americans after the Civil War. The Fifteenth Amendment was ratified in 1870, and explicitly prohibited racial discrimination in voting. It stated that the right to vote could not be denied or abridged on account of race, color, or previous condition of servitude.

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Differences in State Voting Rights

States have policies that range widely from incarcerated people being able to vote to the ban of voting rights indefinitely for those who committed a crime. States like Maine, Vermont and the District of Columbia allow incarcerated people to be able to vote in prison. Maine and Vermont both have guarantees in their constitutions about the right to vote for all citizens, which has been interpreted to include incarcerated people from even the earliest days of their statehood. In Vermont, the legal decision by the Council of Censors in 1799 solidified the right to vote for people behind bars. The 1793 Constitution was interpreted to mean that the loss of voting rights could only occur in response to voter fraud, and was upheld in the 1980s when there was another attempt to outlaw incarcerated voting in Vermont. Maine also has the right to vote written in the Constitution and has allowed people inside prison to vote since its founding.

Other states only remove the right to vote from people whilst in prison, but immediately restore it after release. States like California had language in their Constitution that prohibited people from voting who had been, “convicted of infamous or high crimes.” In 1974, Proposition 10 was a legislatively referred constitutional amendment that passed. It removed the language in the Constitution and restored the right to vote after the completion of the prison sentence. Other states have more recently made the change to restoring voting rights to those on

28 French, Ellie. “Fact-Check: Sanders Set off a Firestorm over Prisoners Voting, but His Facts Are Straight.”
parole. States like New Mexico, who in 2023 passed HB 4 that restored voting rights to people on parole.\(^\text{30}\) Minnesota also passed HR 28 in 2023 that restored voting rights.\(^\text{31}\)

Many states have more restrictive policies on voting power after prison. Some states strip people of their right to vote until their entire sentence is completed, with parole, probation, and sometimes fines, fees, or restitution. In Alaska, one of the states that is more restrictive on the right to vote, states that if a person has been convicted of a crime involving, “moral turpitude or on probation (parole) for the same crime, you are not eligible to register to vote.”\(^\text{32}\)

The extra step of applying for voting rights to be restored is another barrier imposed by states. In 2021, Virginia governor Ralph Northam announced an executive action that allowed any person released from prison to have their voting rights restored.\(^\text{33}\) It restored 69,000 Virginians’ rights to vote. In 2023, new governor Glenn Youngkin reversed the practice, and began requiring individuals to apply to restore their right to vote.\(^\text{34}\) Applying for the right to vote is incredibly challenging and time consuming, making it even harder for people who have been incarcerated to be able to participate in civic society.

States like Florida and Kentucky are much stricter, and have additional actions for restoration like waiting periods or petitions. Many of these states have restrictions on crimes that revoke voting rights indefinitely. In states like Alabama and Delaware, people who are convicted of specific felonies like murder, bribery, or sexual offenses, are permanently disenfranchised.\(^\text{35}\)

\(^{31}\) “Brief Felon Voting Rights.”
\(^{34}\) “Brief Felon Voting Rights.”
\(^{35}\) “Brief Felon Voting Rights.”
Kentucky, governor Andy Beshear restored voting rights to individuals with non-violent felony convictions by executive order in 2019. Governor Steve Beshear tried to restore voting rights in 2015 but the order was reversed with the subsequent change in governor.

Examining the origin of disenfranchisement law is crucial in analyzing the effects of it today. The variance in state policies and the barriers that they create adds to the confusion surrounding each person’s voting rights once they leave prison.
III. Politics and The Ballot: Political Landscape of Disenfranchisement Law and Current Debates

Political Parties’ Involvement in Disenfranchisement Law

Policies surrounding disenfranchisement have become a hot button issue in the United States. The Democratic Party and Republican Party have starkly different views on not only the laws surrounding disenfranchisement, but also the states’ rights to implement the laws. The spectrum of political beliefs on disenfranchisement is demonstrated throughout the states’ differing policies. Arguments from both Democrats and Republicans are often framed along the lines of classic liberal and classical conservative theories of citizenship.\(^{36}\)

The Democratic party has changed significantly during its existence, now appealing to those with progressive beliefs. During the 19th century, the party tolerated, or even supported slavery, and opposed civil rights reforms in order to maintain their Southern voting base. By the 20th century, the party had undergone a massive change in ideology, and reinvented itself as a party that supported organized labor, civil rights, and progressive reform.\(^{37}\) Because the vast majority of formerly incarcerated people in the United States are people of color and likely to be from lower socioeconomic status, disenfranchisement works simultaneously to dilute the representation of both Black people and lower-income people in the number of eligible voters. This same portion of people who are being disenfranchised and incarcerated are likely people who would vote Democratic.

The Democratic party tends to be in support of restoring voting rights for those who have been convicted of a felony. Stereotypically they advocate for voting rights for previously

\(^{36}\)Jeffrey Reiman (2005) Liberal and republican arguments against the disenfranchisement of felons, Criminal Justice Ethics, 24:1, 3-18, DOI: 10.1080/0731129X.2005.9992176

\(^{37}\)Jeffrey Reiman (2005) Liberal and republican arguments against the disenfranchisement of felons.
incarcerated people who have completed their sentences, or even push for the ability to vote inside prison walls, like Maine and Vermont. They argue that denying formerly incarcerated people the right to vote perpetuates disenfranchisement and can disproportionately affect minority individuals and communities. Many advocates and members of the Democratic party believe that once individuals have paid their debt to society, they should regain all of their rights as citizens, including the ability to vote. This approach is argued to promote rehabilitation and reintegration into society.38

The Republican party has also changed since its founding. During the 19th century the Republican party stood against the extension of slavery to the country’s new territories and also for complete abolition. During the 20th and 21st centuries the party became associated with laissez-faire capitalism, low taxes, and conservative social policies.39 With the election of Donald Trump, the party has swung more conservative than before. Republican states tend to be the states with the most conservative policies surrounding felony disenfranchisement, with many of those states just recently giving back the right to vote after years of political outrage.

The Republican party tends to be more opposed to allowing formerly incarcerated people to be able to vote, especially while they are serving their sentences, on parole or probation. They argue that voting is a privilege that should be reserved for law-abiding citizens and that those who have been convicted of a felony have forfeited this privilege by breaking the law. Some argue that allowing previously incarcerated people to vote could actually undermine the integrity of the electoral process or that it is not a significant priority compared to other criminal justice issues.40 The Republican Party has historically been tougher on crime, with a focus on policing

39 Jeffrey Reiman (2005) Liberal and republican arguments against the disenfranchisement of felons.
40 George Brooks, "Felon Disenfranchisement: Law, History, Policy, and Politics"
and stricter sentencing. In 2012, the Republican Party Platform stated, “Liberals do not understand this simple axiom: criminals behind bars cannot harm the general public. To that end, we support mandatory prison sentencing for gang crimes, violent or sexual offenses against children, repeat drug dealers, rape, robbery, and murder. We oppose parole for dangerous or repeat felons. Courts should have the option of imposing the death penalty.”

Traditional Republican ideology is tough on crime, which leads to the support of harsh penalties like disenfranchising those who leave prison forever. There has been some progress in states like Florida, where ballot measures have changed the landscape of this political issue.

While there is general support across the United States for previously incarcerated people being able to vote after having completed their sentences, there is a stark division amongst party lines. According to a Pew Research report, “Nationwide, around seven-in-ten (69%) Americans favored granting voting access to those convicted of felonies after they serve their sentences.”

While supportive, when broken up, Democrats were much more likely to be in support with 82% of them agreeing. Only 55% of republicans support allowing people to vote after completing their sentences.

https://www.republicanviews.org/republican-views-on-crime/


Interest Group Participation

While political parties tend to be the largest players in the game of disenfranchisement, there are also interest groups that have significant influence on the topic. Policymakers and advocates from across the aisle have opinions and stakes.

A significant set of interest groups are those who believe in tough-on-crime policies. These groups often include law enforcement associations, victim advocacy organizations, and individuals who believe in strict sentencing policies who oppose policies that may reduce penalties for previously incarcerated people. They argue that disenfranchisement serves as a deterrent or a consequence for criminal behavior.44

Election Integrity Advocates are another group that play a role in advocating against allowing people to be able to vote once they leave prison. Certain organizations focus on maintaining what they perceive as the integrity of the electoral process. They argue that allowing formerly incarcerated people to vote could potentially undermine the legitimacy of elections or lead to fraudulent voting.45 Roger Clegg at The Center for Equal Opportunity stated, “If you aren’t willing to follow the law yourself, then you can’t demand a role in making the law for everyone else, which is what you do when you vote. We don’t let everyone vote- not children, not non-citizens, not the mentally incompetent, and not felons- because we have certain objective, minimum standards of responsibility and commitment to our laws that must be met before someone is given a role in the solemn enterprise of self-government.”46


45 Coyle, Michael. “State-Based Advocacy on Felon Disenfranchisement.”
Think tanks and policy advocacy groups are also powerful players in disenfranchisement law. Some think tanks and policy advocacy groups that align with either conservative or liberal ideologies have published research and reports either opposing or supporting the restoration of voting rights for previously incarcerated people. In a 2017 testimony before the U.S. Commission on Civil Rights, Hans von Spakovsky of The Heritage Foundation stated, “In other words, felons are individuals who have chosen to violate the rules and norms of our society, rules and norms that are incorporated in our laws and that are intended to protect all of us and provide for the safety of our communities. Those who are not willing to follow the law cannot claim a right to choose those who will make and enforce the laws for everyone else.”

Interest groups work with scholars to publish works on why formerly incarcerated people should not be able to vote. Roger Clegg again wrote a piece in 2016 titled, “If You Can’t Follow Laws, You Shouldn’t Help Make Them” and stated, “The fact that a disproportionate number of felons at some point in time belong to a particular racial group does not make disenfranchisement racist, just as most felons being male and young does not make these laws sexist or ageist. And while a disproportionate number of felons are black, their victims likewise are disproportionately black, so minimizing the consequences of crime and empowering criminals also has a disparate impact on their law-abiding African-American neighbors.” Much of his work specifically surrounds disagreements about the racial impact of disenfranchisement law.

The advocates against disenfranchisement laws are robust. Organizations like the ACLU, Brennan Center for Justice, and the NAACP are all outspoken advocates for formerly incarcerated people.


incarcerated people being able to vote. In a 2017 op-ed “Restore ex-felons’ voting rights - it’s the right thing”, Kwame Akosah of the Brennan Center for Justice wrote, “Instead of throwing away resources to keep citizens from voting, evidence suggests restoring rights actually boosts public safety and helps these individuals re-enter society. A 2011 Florida government study found that people released from prison whose rights were restored were three times less likely to return to prison or supervision than counterparts without the opportunity to vote.” Organizations that support the enfranchisement of previously incarcerated are particularly vocal, and have significant community support.

Analysis of Current Debates: The Florida Case Study

Florida Amendment 4 is a recent example of a ballot measure that was designated to automatically restore the right to vote for people with prior felony convictions, except those convicted of murder or a felony sexual offense, upon completion of their sentences. As of 2018, people who were convicted of a felony were never able to vote again in the state of Florida, unless specifically granted by a state board. Under former Florida Governor Charlie Crist, people who had completed their sentences, paid restitution, and had no pending criminal charges had their voting rights automatically restored. However, Governor Rick Scott, a Republican, reversed these reforms. Under Scott’s administration, people convicted of a felony must wait five

or seven years, depending on the type of offense, after completing their sentences to request the restoration of their voting and civil rights.51

Florida was one of four states, prior to the ballot measure, where previously incarcerated people could only regain their voting rights if a state official or board took action to restore them.52 This required applications on individual to individual basis, creating a cost higher than most would pay. This law was originally part of the Florida Constitution in 1968, as well as earlier versions from 1885 and 1868. On February 1, 2018, U.S. District Court Judge Mark Walker declared Florida’s process for reinstating formerly incarcerated people’s voting rights unconstitutional, citing violations of the First and Fourteenth Amendment. Governor Scott announced his intent to appeal this ruling to the U.S. Court of Appeals for the Eleventh Circuit, which ultimately agreed, temporarily halting the lower court’s decision.53

Role of Political Parties and Interest Groups in Florida

Amendment 4 was popular but still had significant opponents. Many of the supporters of the measure, and of enfranchising people in general, were democrats or more liberal groups, whereas many opponents were more conservative. Representatives from outside of Florida vocalized their support or opposition on the amendment, with Senator Bernie Sanders from Vermont stating his support. Senator Sanders is outspoken on this issue, because his state is the most progressive, with incarcerated people being able to vote from inside the prison walls.

51 “Florida Amendment 4, Voting Rights Restoration for Felons Initiative (2018).”
Senator Sanders stated, “Amendment 4 represents a potential civil rights triumph: It could enfranchise more people at one time than any single initiative since women’s suffrage. It’s on the ballot this November and would restore the voting rights of nearly 1.5 million Floridians.” Due to its possibility of enfranchising so many voters and the massive switch of rights, there was significant attention paid to Florida.

Florida Amendment 4 is a perfect example of interest groups and their influence on disenfranchisement law. There was significant support for the amendment, with the Floridians for a Fair Democracy leading the charge. Desmond Meade was the chair of the campaign committee, and also the president of the Florida Rights Restoration Coalition. Other supporters of the measure included Senator Bernie Sanders, Representative Charlie Crist, and the Democratic Progressive Caucus of Florida. Because of Florida’s polarized political landscape there was significant discourse and debate on the passing of the measure.

Arguments for the measure were varied. The League of Women Voters of Florida stated, “The League was one of the sponsors of this initiative. Florida is one of only four states that permanently bars previously incarcerated people from voting after their sentences are completed. This restriction on voting is a vestige of Florida’s post-Civil War Constitution. Everyone deserves a second chance.” Other business leaders and organization directors also made statements about the need to treat formerly incarcerated people like citizens, something that Florida was not doing prior. There was support for the measure across the aisle too, although traditionally this topic is one that is relatively partisan.

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The opposition to the measure was significant, although less robust. Floridians For A Sensible Voting Rights Policy, was organized as a nonprofit to advocate for and against voting policies relating to their mission, with the opposition to Measure 4 being a core tenant. The executive director Richard Harrison said, “Other than murder and sexual felonies, it treats all other felonies as if they were the same. It’s a blanket, automatic restoration of voting rights. If it gets on the ballot, your only choice will be an all or nothing, yes or no vote on the amendment. If it passes, neither you nor anyone else will ever be allowed to consider the specifics of the crime or the post-release history of the criminal before that new voter registration card is issued.”

Many of the arguments in opposition to the measure are on its requirements. The measure specifies that those convicted of murder or sex crimes are still unable to vote.

Money is one of the most influential ways that an interest group can make a difference. In Florida, Amendment 4 raised 26 million dollars in support of the measure. The opposition groups did not disclose their finances. The largest contributors to the campaign were the ACLU who contributed $6.09 million, and The Sixteen Thirty Fund, which gave $3.95 million.

Florida is a direct democracy state, which is how Amendment 4 was passed. It began as a citizen initiative and made a ballot position with hundreds of thousands of signatures. There are nineteen direct democracy states across the country, meaning that citizens are able to directly have a say in the laws in their states. In direct democracy, people have the opportunity to vote on laws, policies, and important issues directly, without relying on elected representatives to make these decisions on their behalf. Direct democracy contrasts to representative democracy, where

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57 “Florida Amendment 4, Voting Rights Restoration for Felons Initiative (2018).”
58 “Florida Amendment 4, Voting Rights Restoration for Felons Initiative (2018).”
59 “Florida Amendment 4, Voting Rights Restoration for Felons Initiative (2018).”
https://www.voteokeechobee.gov/-Voter-Information/Amendment-4-and-Clemency.
citizens elect representatives who then make decisions on their behalf. Florida Amendment 4 was a critical example of direct democracy working, with citizens putting the amendment on the ballot.
IV. The Cost of A Vote: Literature Review and Interventions

Literature Review on Why People Vote

To understand how formerly incarcerated people vote and how to get them to vote, it is important to think about why people vote in general. Incarcerated people and formerly incarcerated people are a different population than the general public, although their votes are just as critical. Voting is a fundamental part of democratic society, and is necessary to maintain our country’s legitimacy. It gives people the opportunity to actively participate in shaping the direction and policies of their communities, an idea that is just as important for those who have been incarcerated as other Americans. Voting also ensures representation and accountability, and allows people to have a say in the implementation of public policy that directly impacts their lives and communities. Previously incarcerated people are not traditionally a group that have a say in the democratic process or public policy of America. Because they have been incarcerated without the ability to impact civil society they have a different access to democracy.

Like other rational decision-making, voting is a calculated decision. William Riker and Charles Ordeshook wrote “A Theory of the Calculus of Voting” in 1968 and it has since been considered a fundamental contribution to the field of political science. They argue that voters engage in a calculus of voting to maximize their individual utility, and say that voters assess the costs and benefits of voting and base their decision on whether or not the expected benefits outweigh the costs. They introduce the concept of the “paradox of voting,” which questions the rationality of individual voting behavior, given the small chance that an individual’s vote will sway an election. They use a calculation for the expected utility of voting, \( R = (B - C) \).\(^6^1\) The reward, or \( R \), is the utility that an individual voter receives from his act of voting. They multiply

the differential benefit (B), with the probability that the citizen will bring about the benefit (P). B is the difference in expected utility for the individual of the election of his favored candidate over the election of his disfavored one. R is then calculated by subtracting C, the cost to the individual of the act of voting.\textsuperscript{62} C is ultimately the most important element of the equation, and evidence suggests that it is a significant predictor of voting. If the cost is too high, people will not cast a ballot.

People vote because the cost of voting is less than the benefit. This benefit could be the “warm glow” people experience, social pressure, or the ability to make a difference in an election outcome. Riker and Ordeshuk establish this “cost” to vote, and most of the interventions that work to get people to vote are attempts to lower the cost. In their calculations, C is the cost, and the benefit is R, the reward. The reward can differ between groups or individuals, but there is significant psychological research on why people do participate in civic society.

There is a debate in the literature about why people vote. One element surrounds the idea that a single vote makes a difference in an election outcome. “The probability that I’ll be the deciding vote in the 2008 presidential election is much smaller than the chance that I’ll get hit by a car on the way to the polls,” said Florida Atlantic University’s Kevin Lanning, PhD.\textsuperscript{63} Why people vote if their vote specifically won’t make a deciding difference is what many psychologists and political scientists study. Some people see the practice as a form of altruism, with moral value being a concern. The example of seeing yard signs and political ads makes people feel like they are doing a service for the common good. Others believe that voting is a form of egocentric behavior. This is the idea that Americans believe that because they are voting,

other people with similar values or favors are also voting. This notion is called the “voters illusion.”

Social pressure also matters when voting. The decision to vote requires a choice between serving a general social good, and satisfying one’s own self-interest. The voter's illusion, and the belief of personal relevance, the notion that their one vote matters, are two main players psychologically in the decision to vote.\(^6^4\) Psychologist Lanning watches people's voting behavior as a poll worker in Palm Beach, Florida. In the 2002 midterm election, he watched a previously incarcerated person try and vote and continuously get turned away. Lanning went on to research the phenomenon of voting and that person's particular persistence, and looking back, “sees his determination to vote as an affirmative act that underscores his membership in the larger group.”\(^6^5\) It's the same as how any group could mobilize an individual to act in accordance with their goals. While the democracy of the United States is not directly enforcing its citizens to vote in a particular way, it is a cultural norm that voting is encouraged, and an expression of self-concept.

People who are less accustomed to voting may be influenced by social pressure. A significant factor in the decision-making process of many individuals when it comes to voting, as demonstrated by research conducted by Yale political scientists Alan Gerber, Donald Green, and Ron Shachar.\(^6^6\) His study involved 180,000 Michigan households during the 2006 primary elections. Approximately half of the participants comprised a control group that did not receive any mailed communications. The other half was divided into four groups, each receiving a


\(^6^5\) Munsey, Christopher. “Why We Vote: Why Do We Vote?”

different type of mailing. The first group received a letter reminding them of the importance of fulfilling their civic duty and voting. The second group received the same message but were additionally informed that voting records were public and that their turnout was being studied. The third group received a letter that listed whether or not they had voted in the previous two elections and were told that another letter would follow after the election, indicating whether they had voted in the upcoming one. Lastly, the fourth group received a letter that listed whether their neighbors had voted in the previous two elections and were informed that, after the election, another letter would be sent to them and their neighbors, with a checkmark next to their names indicating whether they had voted or not. Among the fourth group, turnout rose by 8.1%, an effect described as “explosively large” compared to what is historically achieved in the promotional voting mailings. Turnout rose by 4.9% in the group that was shown their own voting records, and it rose by 2.5% among those told that their voting records were being studied.

People believe that their vote will matter in the ultimate election outcome. Research by Richard Jankowski, PhD and chair of the political science department at the State University of New York also supports the idea of altruism and voting. Through a study done with the 1994 election, he found that respondents who agreed with altruistic statements were more likely to have voted in the election. People who do not vote tend to be more self-interested, and those who do tend to be more altruistic.

Voting relies on human decision making, in which self-interest plays a significant role. James Fowler, a political scientist at UC San Diego, studies voting through the lens of a game. In the game scenario, Player 1 is presented with a sum of money and faces a choice: they can either

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67 Gerber, Alan S., Donald P. Green & Ron Shachar (2003) "Voting May be Habit Forming: Evidence from a Randomized Field Experiment."
68 Gerber, Alan S., Donald P. Green & Ron Shachar (2003) "Voting May be Habit Forming: Evidence from a Randomized Field Experiment."
69 Munsey, Christopher. “Why We Vote: Why Do We Vote?”
choose to keep all the money for themselves or decide to divide it with Player 2, with the assurance that Player 2 won’t know their identity. According to the principles of self-interest, one would expect that Player 1 would choose to keep all the money. However, the research findings indicate that this is not the case. Only around a quarter of the players opt to keep all the money for themselves. Approximately half of the players choose to share some portion of the money, and nearly a quarter decide to split it evenly with the anonymous Player 2. These results suggest that factors beyond pure self-interest influence the decisions made by the players in this game.\footnote{Munsey, Christopher. “Why We Vote: Why Do We Vote?”}

Evidence suggests that individuals displaying altruistic tendencies in the dictator game, where they share money, might also be inclined towards other social behaviors like voting. A study published in The Journal of Politics provides evidence to support this hypothesis. It reveals that a participant in the dictator game who chose to split the money was twice as likely to vote compared to someone to keep the money all for themselves, often referred to as a “scrooge.”\footnote{Munsey, Christopher. “Why We Vote: Why Do We Vote?”}

Other researchers have found two other kinds of voters: those who are election-specific voters, and those who are habitual voters. Habitual voters are voters who consistently show up to vote in every election. Election-specific voters are those who are motivated to vote by a particular issue, candidate, or topic.\footnote{Aldrich, John H., Jacob M. Montgomery, and Wendy Wood. “Turnout as a Habit.” Political Behavior 33, no. 4 (2011): 535–63. http://www.jstor.org/stable/41488876.} People who vote regularly are significantly more likely to have resided at the same location during multiple election cycles, providing them with a consistent environment for their voting habits. The act of voting out of habit might be triggered by various election-related cues, such as discussions about politics among neighbors, presence of political messaging in the neighborhood, or surrounding political activism. However, it is important to note that this doesn’t imply that habitual voters haven’t thoughtfully considered the
issues; as Wood points out, someone can establish a voting routine while still making thoughtful and informed choices at the polls.\textsuperscript{73}

The rise of single-issue voting has created a different environment surrounding why people vote. Single-issue voters are people who base their votes on a candidate’s stance on a particular issue of policy. Abortion, gun rights, LGBTQ+ equality, and others are all issues that propel voters to cast their ballot in favor of a candidate with views that align with theirs on this one topic. Candidates are leaning into single-issue voters as well, coming out aggressively on one issue that will align them with voters surrounding that topic.\textsuperscript{74}

Altering the benefit to voting is an almost impossible task. The cost, however, for many groups is insurmountably high to cast a ballot. People vote for many different reasons, and experience different benefits when they do so. Whether they experienced a warm glow, or had social pressure in their communities, they felt some benefit. Because of this debate in the literature and individualization amongst possible benefits, scholars, advocates, and policy-makers have turned to lowering the cost of voting to get people to cast a ballot.

\textbf{Interventions that Lower the Cost of Voting}

Lowering the cost of voting is one of the main interventions that succeeds in getting people to vote. Systems that decrease the cost make it easier for voters to cast a ballot. Because it is almost impossible to change the benefit a person receives, or their chance of actually determining an election outcome, attempting to decrease the cost to them to vote is the best way

\textsuperscript{73} Aldrich, John H., Jacob M. Montgomery, and Wendy Wood. “Turnout as a Habit.”

to alter a person's chance of voting. Extended polling hours, mail-in and absentee voting, online registration, transportation services, and weekend voting are all ways to lower the cost of voting. These are interventions that work to decrease the burden felt on Americans, especially ones that might not have as easy of an access to the polls.

The cost of voting has many dimensions. It's whether or not a person knows where they are going to cast their ballot, or how they are going to get there. It is if they have a vehicle or mode of transportation. It is if they feel comfortable taking the time off work, or if they feel that they are going to have repercussions from voting. It is if once they get to the polling station they feel able to cast a vote without intimidation. There are all sorts of costs associated with voting: monetary, emotional, physical, or social. The best way to get people to vote is to decrease these costs.

Educating voters makes a difference in the number of people that turn out to the polls. Providing accessible and unbiased information about the voting process, candidates, and ballot measures can empower voters to make informed decisions. A 2020 study reports that youth who were encouraged to vote or taught how to vote in high school are more likely to vote and participate in other civic activities.75 This education that young people receive is disproportionately given to students of a higher socioeconomic status and those who are primarily white. Two out of every three White students stated that they received civic engagement or instruction, compared to only one in two Black students.76 Education surrounding voting and civic society starts early, and begins to develop significant disparities between voters and nonvoters. It is much harder to educate, register people to vote, and then actually have them

76 “Youth Who Learned about Voting in High School More Likely to Become Informed and Engaged Voters.”
vote when they are older, rather than starting the process when they are young adults. This is where effects from segregated schools and redlining districts play into the education and resources that provide more advantaged, predominantly white, students resources and opportunities that might not be provided to lower-income students of color.

Mail-in voting is another attempt to lower the cost of voting. It also allows people to have easier access to democracy. Mail-in voting has different outcomes, in which some studies have said it makes a negligible difference, and others say that it does increase voter turnout. In either case, it provides an avenue for those who might not be able to make it to the polls an opportunity to vote. California established universal vote-by-mail, and subsequently saw dramatic growth in turnout in the 2020 election from low-income and communities of color. While this is not a causation, merely a correlation, it is plausible that mail-in voting had an effect on voter turnout.

Language assistance has helped increase voter turnout by lowering the cost of voting among populations who do not speak English. In 2006, federal legislation passed that extended the minority language provisions of the VRA, or Voting Rights Act of 1965. Any county with more than 10,000 residents with a native language that is not English and who indicated on the Census that they had a lack of English, is required to provide election materials in those languages. Language assistance programs have risen in popularity, with more counties and states being required to have them accompany ballots. These programs are indicative of the legacy of Jim Crow, where laws were created to keep those who didn’t speak English away from

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the polls. Literacy tests and other reinforcements to remove the vote from people of color have legacies today. While language assistance is helpful, there are other rights that voters have to request assistance in many polling locations that are not as well known.

Other policies, such as voting on Saturdays or designating election days as holidays are important to lowering the cost, especially for lower income individuals. These interventions are especially important for the recently incarcerated population, who likely have lower-income jobs that might not let them take time off during the week to vote.\footnote{80} Some states mandate paid time off for voting, although there could be interpersonal repercussions. The monetary cost of voting could mean the difference between a paycheck that is sufficient and one that is not. Allowing the government to mandate time off, or allowing voting to be on Saturday is a way to decrease the burden on voters.

Having elections on a Tuesday makes the United States an outlier among other advanced industrial democracies. A Pew Research Center report finds that 27 of the 36 member countries of the OECD, or Organization for Economic Cooperation and Development, have their elections on weekends. The United States is an outlier with only 9 countries not holding elections on weekends, although two of them, Israel and South Korea, make their elections national holidays.\footnote{81} Allowing citizens to vote either on days that have been established as a national holiday, or on Saturdays would eliminate the risk for many people to have to take time off work or risk their employment to participate in civic society.

All interventions that attempt to lower the cost of voting help make it easier for people to vote. While some interventions are targeted towards certain groups, they ultimately create an

environment that makes it easier for all Americans to engage in civic society. Analysis reveals that lowering the cost of voting is the best way to increase voter turnout.
V. Voting Behavior and Strategies for Enfranchisement

The Case for Vote Access

Getting formerly incarcerated people to vote is crucial to the integrity of our democracy. While many do not have the ability to vote due to the nature of their crimes or state law, there are still large groups of people who have left prison that do have the right to vote but do not. Voting is a critical step towards reintegration. By participating in the democratic process, they can feel a sense of belonging and responsibility towards their community and country as a whole. Society would then promote the ideas of rehabilitation and reformation, which can be seen as a way to encourage previously incarcerated people to stay law-abiding citizens.

Research also suggests that when individuals feel connected to their communities and have a stake in society, they are less likely to reoffend. Voting is among a set of behaviors that recently incarcerated people can partake in that is associated with reduced criminal conduct.\(^82\) Having the right to vote is correlated with reduced recidivism.\(^83\) When people are more connected to their communities, like with voting, they are less likely to do harm to that community. Allowing previously incarcerated people to vote can foster a sense of responsibility and accountability, potentially reducing the likelihood of returning to criminal behavior.

The cost of voting is higher for these populations, especially recently incarcerated people who might not have the resources to access a ballot as easily. To vote a person has to want to. There are no laws requiring voting, if anything there are laws that make it much more difficult.\(^84\)

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People who have been impacted by the criminal justice system might have a different relationship with the government than the general population which could dissuade them from voting.

This chapter will look at people during incarceration, and then after they have served their time. Formerly incarcerated people do not vote at the rates of other Americans, and getting them to vote is integral to the integrity of American democracy. This chapter will also include policy recommendations to help formerly incarcerated people to know their rights around voting, ultimately increasing their chances of casting a ballot.

Voting Behind Bars

Only about 7% of people vote inside prisons, a rate much less than the 66% of eligible Americans that turned out for the 2020 presidential election. Maine and Vermont are the only two states that allow people inside prison walls to be able to vote. No other state allows incarcerated people to vote. But, even in those states, incarcerated people do not vote at the rate of non-incarcerated people. This might be surprising, because people who are incarcerated have the time and the access to the polls. In some facilities, advocacy groups register rolls of them. Maine and Vermont also have mail-in voting systems for those inside prisons, that allow them to vote based on where they lived prior. The cost of voting in prison is low, and the onus is entirely on the person to vote. Many of the interventions that are necessary outside of prison walls are not needed in prison, because of already set up systems that should make the prison population vote in dramatically higher numbers than general America. The onus is on the incarcerated person to

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be informed enough to vote, which ultimately leads to a very small number of incarcerated people who actually do vote.

Maine and Vermont are outliers in their incarcerated populations. A majority of their inmates are white, which diffuses racial tension surrounding disenfranchisement law, and they also have a very progressive ideology, which has allowed these states to maintain enfranchisement of incarcerated people since their founding. In Maine and Vermont, black people represent a larger share of incarcerated people compared to the overall population, but still are a minority overall, with nearly 7 and 10 percent respectively. In both of these states, incarcerated and formerly incarcerated people have never lost the right to vote, and because of the liberal ideology built into the states’ foundations, that right has never been questioned. While Maine and Vermont are useful to look at, because of their population and ideology, many of the lessons that have been learned from voting patterns might not be able to be broadened to the entire United States.

Vermont and Maine both are states that almost eliminate the cost of voting for incarcerated people. Vermont and Maine, the two states that allow people to vote behind prison walls, use mail-in voting systems from their pre-incarceration address. Local groups enter the prisons and help them request absentee ballots, significantly reducing the cost. Even though there are advocacy groups who help register the people in prison, and their ballots are sent by mail, there is still a low turnout rate in the election. It is estimated that only one-third of people

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87 Lewis, Nicole. “In Just Two States, All Prisoners Can Vote. Here’s Why Few Do.”
imprisoned in Vermont are registered to vote, and that only about 8% of incarcerated people voted in the 2018 general election.\textsuperscript{89} In Maine, those numbers are even lower at 6%.\textsuperscript{90}

Incarcerated people can be cut off from the internet and all civil society inside prison walls. While there is still access to television and other information sources, they do not have unfettered access to the internet or media resources like they might outside.\textsuperscript{91}

It is also challenging to educate incarcerated people on the impact or importance of their vote when they likely don’t see the effects of it from inside prison walls. The corrections department does not track inmate voting or registration, so understanding the political ideology or tendencies is almost impossible.\textsuperscript{92} Low literacy rates among incarcerated people and previously incarcerated people in general is one of the most pressing issues. Many of them struggle to read or write, which makes filling out a ballot almost impossible. A study estimated that 70% of incarcerated people cannot read at a fourth-grade level.\textsuperscript{93} There are multiple hurdles in between having the right to vote and actually casting a ballot.

Another challenge to voting from prison stems from the lack of awareness among local election authorities about the voting rights of most incarcerated individuals. This often results in the provision of misleading information when inquiries are made on this issue. The propagation of inaccurate information about eligibility can also arise from registration forms containing incomplete details surrounding disenfranchisement laws. The prevalence of misinformation among election officials and within election materials can foster confusion regarding eligibility among both staff and incarcerated people. In 30 states, individuals must register days or weeks

\textsuperscript{89} White, Ariel, and Avery Nguyen. “Locking up the vote? evidence from Maine and Vermont on voting …”
\textsuperscript{90} White, Ariel, and Avery Nguyen. “Locking up the vote? evidence from Maine and Vermont on voting …”
\textsuperscript{92} Lewis, Nicole. “In Just Two States, All Prisoners Can Vote. Here’s Why Few Do.”
before Election Day. Those incarcerated during the registration period and unable to register from prison might be barred from voting.\textsuperscript{94} Some states also enforce stringent voter ID laws that demand specific forms of identification for voter registration. People in prison are less likely to possess the required forms of identification, and their personal effects are usually confiscated upon arrest. Also, government-issued prison or jail IDs often do not meet the criteria for accepted identification. This lack of proper identification may prevent incarcerated individuals from registering.\textsuperscript{95}

Voter registration forms could also be challenging to access in some prisons. While there are advocacy groups that come into the facilities and register some incarcerated voters, there are other prisons that do not. This puts the onus on incarcerated people to access the registration forms to cast a ballot. Voter registration necessitates the completion of official forms, which are typically available online or in paper format. Given the restricted access to the internet and paper forms in prisons, submitting the required restoration documents can be an insurmountable challenge. Certain states also mandate that first-time registrants provide their social security number or driver’s license number, information that many individuals, especially young people, may not have memorized. Strict deadlines for receiving registration forms by election offices mean that incarcerated individuals relying on the prison’s mail system or in-prison volunteers must complete the necessary paperwork well in advance.\textsuperscript{96}

\begin{footnotes}
\item[96] Initiative, Prison Policy. “Eligible, but Excluded: A Guide to Removing the Barriers to Jail Voting.”
\end{footnotes}
Interventions to get Incarcerated People to Vote

The specific work required to facilitate eligible voters casting their ballots from behind bars varies depending on the state and its respective laws. These interventions only apply to Vermont, Maine, and the District of Columbia, although it could be applied later to other states if laws were to change. Nonetheless, there are different interventions from different points to get incarcerated people to vote. Advocates can engage in outreach to local election officials and sheriffs to educate them about the voting rights of individuals in prison. Reviewing election resources to ensure accurate and comprehensive information about criminal disenfranchisement laws is available can also prove beneficial. Organizing voter registration drives and offering assistance for incarcerated individuals to vote, as well as providing relevant training for election workers and volunteers visiting jails, are critical steps. During the COVID-19 pandemic this was a particularly high barrier, with organizations being unable to go into the prisons to register people. Furthermore, monitoring and providing support for the process of voting in prison, identifying and addressing issues to prison voting through policy changes both contribute to enhancing enfranchisement efforts. People inside prisons have stories of requesting information to vote or asking for sign-up sheets to get registered, with no luck. After the pandemic, organizations like the League of Women Voters or disability rights groups will be able to go inside again to register people to vote.

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99 Board, Riley. “What Does an Election Look like inside a Prison?”
Leaders of state legislative and executive branches also play a crucial role by designating prisons as formal voter registration agencies under the National Voter Registration Act (NVRA). Coordinating between jail and election officials, amending voter identification and registration laws to be more inclusive, and allowing for same-day registration and absentee voting are effective strategies. Providing necessary funds for postage, permitting individuals to use the jail as their registration address, and ensuring voting materials are distributed to incarcerated individuals can further facilitate enfranchisement.

Election officials should ensure that all staff members are well-informed about the law to avoid disseminating misinformation that might discourage jailed individuals from voting. Including comprehensive information about disenfranchisement laws in election resources and manuals is crucial. Establishing prison polling stations, facilitating registration and voting through absentee ballots, and allowing alternative submission methods, such as scanned email or fax, can all enhance the accessibility of voting. Additionally, presuming that incarcerated people can vote and ensuring the distribution of voter guides can further support enfranchisement efforts.

Prison sheriffs can contribute to enfranchisement efforts by providing voter registration materials within jails and disseminating relevant information to individuals during the admission and release process. Collaborating with election officials to establish jail polling stations and enabling registration and voting through absentee ballots are important steps. Ensuring that staff members are trained to register voters is also vital to fostering a more inclusive voting environment within prisons.

Voting After Prison

Is a similar story between those who are incarcerated and those who have gotten out of prison. Although some portion of formerly incarcerated people can vote in every state, they vote at much lower rates than general Americans. While there aren’t statistics on what percentage of eligible people did actually vote who were formerly incarcerated, less than 25% of them were actually registered to vote. An estimated 2% of the voting age population in the United States was ineligible to cast a ballot during the 2022 midterm election.104 Previously incarcerated people in states like Kentucky or Alabama have almost insurmountable barriers to voting, with specific crimes that are banned and certain “moral turpitudes” that eliminate the possibility of voting forever.105 Many previously incarcerated people who were convicted of violent crimes are completely banned from the polls as well, making a portion of them definitely never able to vote again.

Evidence suggests formerly incarcerated people are less engaged in political society because they historically could not vote. In a study done by the Marshall Project, only 1 in 4 eligible voters who were formerly incarcerated were registered, which is significantly lower than the general population, where 3 in 4 eligible voters are registered.106 While there might have been policies directly affecting them, their families, or their businesses, they were unengaged because they had no say. In recent years when there have been changes in the law through ballot measures or executive orders, many people did not know, possibly because of their historically low engagement rate. Advocates for eliminating disenfranchisement law encourage any type of notification when formerly incarcerated people are able to vote again.

105 “Brief Felon Voting Rights.”
106 Lewis, Nicole, and Andrew Rodriguez Calderón. “Millions of People with Felonies Can Now Vote. Most Don’t Know It.”
Some previously incarcerated people say they would vote if given the right to do so, although in practice, many still don’t. Evidence suggests that approximately 35% of disenfranchised people would have voted if given the right to do so.\textsuperscript{107} With newer developments to franchise populations of people in different states, there are different numbers on how many formerly incarcerated people actually do vote who have the right. Because of the cost and lack of knowledge around voting, there is a low number of formerly incarcerated who do vote.

Some states increase the cost of voting for previously incarcerated people by requiring an application for restoration of rights, or an appeal to be registered to vote. The majority of people who were incarcerated do not re-register to vote, either because it is challenging, or because it just simply does not take precedence over other things. In Iowa, the last state with a lifetime ban on voting for people with felony convictions, only 5,000 of the 45,000 people affected had re-registered to vote.\textsuperscript{108} In Arizona, a person who has been convicted of two or more felonies may only have civil rights restored by the judge, after the person applies to the court for restoration of rights.\textsuperscript{109} As shown in Riker and Ordeshook, these laws dramatically raise the cost of voting. While most advocates are concerned with the more traditional costs of voting, those who were convicted of felonies require different focuses. There are additional costs associated with voting, like the additional requirement of applying to re-register to vote, or needing a pardon.

Some states, like Florida require all fines and fees to be paid before allowing previously incarcerated people to register to vote. These costs create an almost insurmountable barrier for newly released people, many of whom might not have a well enough paying job to afford to live.

\textsuperscript{108} Lewis, Nicole, and Andrew Rodriguez Calderón. “Millions of People with Felonies Can Now Vote. Most Don’t Know It.”
\textsuperscript{109} “Brief Felon Voting Rights.” National Conference of State Legislatures
and pay these fees. Only 80,000 of 1.4 million Floridians with felony convictions were registered to vote in 2020.\textsuperscript{110} The Florida Court Clerks and Comptrollers stated that the courts issued more than one billion dollars in fines and fees between 2013 and 2018.\textsuperscript{111} Requiring that formerly incarcerated people pay all of the fines before being able to vote adds an additional monetary cost, adding to all of the other costs of voting.

**Interventions to get Formerly Incarcerated People to Vote and Policy Recommendations**

There is a gap in the literature surrounding interventions that are effective to get the previously incarcerated population to vote. There is robust literature on ballot measures and governmental changes that allows some the legal right to vote, but little information on how to get them to vote once they have the ability. No more than 1 in 4 formerly incarcerated people registered to vote in the 2020 election.\textsuperscript{112} This is compared to 2 in 3 Americans actually voting in the 2020 election.\textsuperscript{113} Previously incarcerated people have a significantly higher cost of voting than the general population. Continuing to encourage ballot measures and political discourse around the re-registration to vote whilst also lowering the cost of voting for this specific population is how to increase voter turnout amongst previously incarcerated individuals.

The first barrier to voting for formerly incarcerated people is the accessibility of re-registration. Depending on the state the process can be very confusing and costly, with fines

\textsuperscript{110} Lewis, Nicole, and Andrew Rodriguez Calderón. “Millions of People with Felonies Can Now Vote. Most Don’t Know It.”
\textsuperscript{111} Lewis, Nicole, and Andrew Rodriguez Calderón. “Millions of People with Felonies Can Now Vote. Most Don’t Know It.”
\textsuperscript{112} Lewis, Nicole, and Andrew Rodriguez Calderón. “Millions of People with Felonies Can Now Vote. Most Don’t Know It.”
\textsuperscript{113} Bureau, US Census. “2020 Presidential Election Voting and Registration Tables Now Available.”
and applications that are tedious.\textsuperscript{114} This creates a high cost to voting for those in more conservative states, whilst others are automatically reregistered. In states with direct democracy, creating a ballot measure that automatically re-registers people to vote when they leave prison is a direct way to lower this cost. This can be applied in states like Arizona, where they have direct democracy, and barriers to re-registration to vote like applications or fines.\textsuperscript{115} In states with high bars for re-registration, it is challenging even to have the option to vote.

For those who do manually re-register or automatically register with their completed sentence, actually voting is difficult. Those who leave prison might not have a permanent residence to go back to or might live in another kind of community. They might also not have a vehicle to take to a polling station, or have money for public transportation. Almost half of formerly incarcerated people have no reported earnings in the first several years after leaving prison, and among those who do find work, half earn less than $10,090 a year. This is less than a full time job at minimum wage.\textsuperscript{116} Having the financial means to access a polling station, or a permanent residence to receive a mail-in ballot is something that the majority of formerly incarcerated people do not have.

Many of the interventions discussed to increase voter turnout among the general population can be applied to previously incarcerated people, with even greater impact. Lowering the cost of voting for general Americans is critical, but the cost is already much higher for people who have left prison. Establishing a day for voting is important. People who have left the justice


system are much more likely to be working a lower-wage job which would provide them less flexibility to vote. Creating a national holiday would eliminate this burden, and would also be more favorable to Saturday voting, because lower-income people tend to not have traditional work-weeks.\textsuperscript{117}

Voter ID laws also impact formerly incarcerated people disproportionately.\textsuperscript{118} Similar to the barriers that incarcerated people face within prison walls, laws that require different forms of identification to vote disproportionately affect people of color and low-income groups. Continuing to fight against strict voter identification laws is beneficial to pushing people to vote.\textsuperscript{119} Voter identification laws were implemented to prevent voter fraud, although there is minimal evidence that voter fraud actually exists. Instead, these laws prevent people without this identification from voting. The use of restrictive voting laws disenfranchise minority voters, and is especially applied to formerly incarcerated individuals.\textsuperscript{120} Since the Shelby County v. Holder decision, many states have enacted new voting restrictions that require photo identification. Texas, for example, enacted a stricter identification law that resulted in the ineligibility of 4.5% of registered voters in the state at the time.\textsuperscript{121}

The most important element is notifying people that they are able to vote. This could be through direct democracy or laws that require the notification of the person that they are able to vote. This could be through the mail, through personal notifications, the correctional facility, or social media. In the case of re-registration automatically with completion of sentence or parole,

\begin{itemize}
\item \textsuperscript{119} Garnand, Ileana. “Costs to Vote Considered Modern ‘Poll Taxes.’”
\item \textsuperscript{121} Horine, By: Brady. “What’s so Bad about Voter ID Laws?”
the parole officer or correctional facility should be required to notify the person of their status to vote. Mail notification is helpful, but the same issue arises as with mail-in ballots and people who were just released from prison possibly not having a consistent home address. Social media is also useful in notifying people, and it could consist of the government and other non-profit organizations working together to raise awareness. While this method could be helpful, instituting a law that requires parole officers and the correctional facility to notify the person that they are able to vote is the most effective and equitable option. Those officers would know the legality of voting for each individual, and would be able to notify them directly with the correct information for the most effective use of time and resources. These interventions are inexpensive to implement, and are also very politically feasible. When looking back at Florida’s Amendment 4, it passed with 64.55% of ballots cast in favor, which shows the likelihood of a ballot measure containing a notification law as passable.122

As of right now, there is no law that requires the state to notify the individual of their ability to vote when they leave the correctional facility. This could be a piece of paperwork included in the documents that they receive when they are released from prison that simply shows the person what their voting ability is. Because different states have different laws, it is critical to simplify the process and notify people of their right to vote. Some states automatically register people when they complete their sentences, some people have to pay their outstanding fines, and others have to petition a board. Because of this bureaucracy, formerly incarcerated people have a much harder time understanding their ability to participate in civic society.

Lowering the cost of voting for formerly incarcerated individuals is critical to pushing people to vote, but also emphasizing the reward. Having campaigns or people push the social pressure aspect of voting could be beneficial in improving the calculus of voting for formerly

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122 “Florida Amendment 4, Voting Rights Restoration for Felons Initiative (2018).”
incarcerated people. There needs to be further analysis on the different calculuses of voting for different populations, because the cost and benefits for formerly incarcerated people are different than with the general population.
VI. Conclusion

Disenfranchisement laws harm our democracy. When members of our society are convicted of crimes they are sent to “correctional institutions” which implies that by serving time for a crime they can correct their mistake and reintegrate into life outside prison. Voting is important for all Americans, but especially for those who were formerly incarcerated. The benefits of allowing previously incarcerated people to vote include: reduction of criminal activity and recidivism rates and an increase in the feelings of connectedness with communities. Eliminating disenfranchisement laws is the first step to getting people who were incarcerated integrated and a part of society again.

Passing a law like Florida’s Amendment 4 is the first step. Having a law on the books that allows formerly incarcerated people to vote is integral to the integrity of democracy, and to the lives of those who have been in prison.

The next step is to actually get those who can vote to register and cast a ballot. This is where notification reduces the cost to vote significantly. Those who are leaving prison should receive paperwork detailing their ability to register to vote and cast a ballot. Once the government eliminates the confusion surrounding registration and eligibility, those who have left prison will be more likely to vote. While it is likely that previously incarcerated people might still not vote at the same rate as the general population, clarifying people’s rights will increase the likelihood of casting a ballot. Making sure that people know their ability to vote is the most crucial step, and allows them to reintegrate into society.

Once formerly incarcerated people know that they can vote, interventions that further lower the cost of voting are more effective. The costs to formerly incarcerated people are so high because of the lack of clarity in legal rights that most do not even register. Once people are
provided with this information, other interventions like weekend voting, language assistance, or ballot education could be effective. Before notification laws, these interventions can be helpful, but would not reach nearly the population that they needed to to make a sizable difference in the number of people that actually cast a ballot.

This paper is ultimately a call to action. Not only a call to action to continue with the wave of enfranchising those who were formerly incarcerated, but also a call to action for more literature, and a call to action to notify those who can vote. It is critical not only for those who have been affected by the criminal justice system, but for all that live in our democracy, to make sure that everyone who has the legal right to vote, votes.
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