

COMMUNITY VOICES:

BARRIERS TO VOTING FOR CALIFORNIA'S FORMERLY INCARCERATED

The key to making our representative democracy work is ensuring that everyone has fair access to voting and a voice in the decisions that affect their lives.

Introduction

The key to making our representative democracy work is ensuring that everyone has fair access to voting and a voice in the decisions that affect their lives. Unfortunately, formerly incarcerated communities across the United States face many barriers to voting, notably what are called “felony disenfranchisement laws,” which strip a person’s eligibility to vote based on a prior felony conviction.

Many felony disenfranchisement laws have roots in the Jim Crow era, along with poll taxes, literacy tests and other policies designed to curb the black vote during the period of Reconstruction following the Civil War.¹ A 2003 study found that felony disenfranchisement laws grew in number during the late 1860s and 1870s in the wake of the Fifteenth Amendment, which guaranteed black Americans the right to vote. The same study also found that the larger the state’s black population, the more likely the state was to pass the most stringent laws permanently denying convicted persons the right to vote.²

This historical tradition of disenfranchisement continues today, as a staggering one out of every 13 African American voting-age citizens in the nation is denied the right to vote because of their formerly incarcerated status, a rate more than four times than that of non-African Americans.³

Felony disenfranchisement has been increasing dramatically as a result of the growing rate of incarceration in the United States. According to The Sentencing Project, the number of people barred from voting because of a current or former felony totaled 5.85 million in 2010, compared to 3.3 million in 1996 and 1.2 million in 1976. Of the nearly 6 million individuals who are currently disenfranchised, 2.6 million have completed their felony sentences but live in states where their rights are not restored.⁴

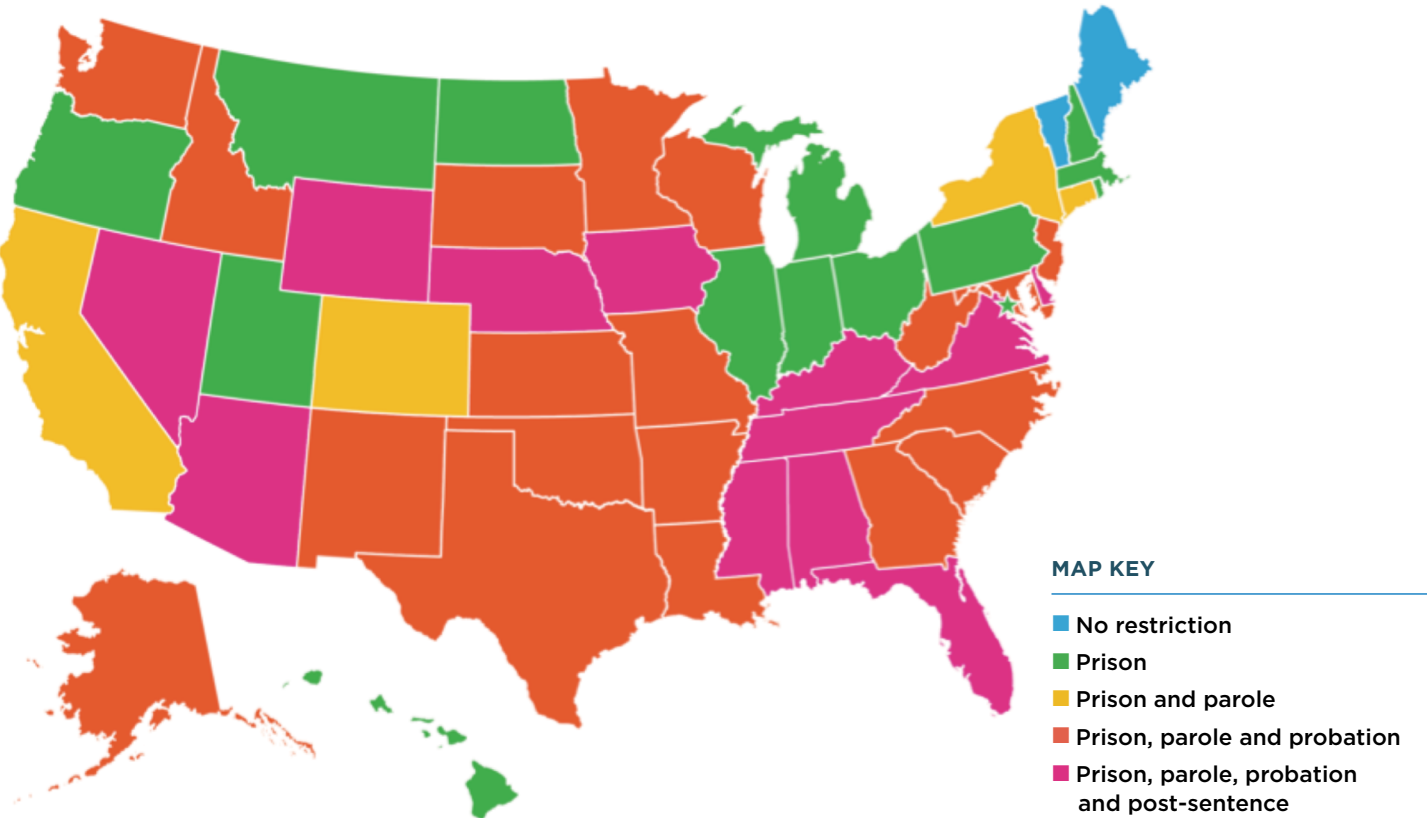
The extent to which incarcerated and formerly incarcerated communities are disenfranchised varies, in part, according to state law. In California, people in state prison or on parole are not eligible to vote. As a result of a recent action by the California Secretary of State, people on community supervision or serving a term of up to one year in county jail pursuant to Section 1170(h) of the California Penal Code/Criminal Justice Realignment Act are also unable to vote. Once they have completed their sentences, they are automatically eligible to vote again and simply need to complete a new voter registration card. Other individuals, such as those on probation or in county jail for a misdemeanor or even certain felonies, are allowed to vote.¹

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¹ For complete detailed information on voting eligibility for incarcerated and formerly incarcerated individuals in California, visit <https://www.letmevoteca.org/>

Sentencing Project Map: U.S. Felony Disenfranchisement Laws by State



Source: The Sentencing Project, accessed from <http://www.sentencingproject.org/template/page.cfm?id=133>

Most states have laws similar to California and do not allow individuals in prison or on parole for a felony conviction to vote. Unlike California, a handful of states like Alabama, Florida and Arizona permanently prohibit these individuals from voting even after they complete their sentence. Meanwhile, some states have less restrictive policies. In 16 states, parolees are actually allowed to vote, and in Maine and Vermont, a felony conviction has no bearing on voter eligibility, meaning all persons in the criminal justice system maintain their right to vote.⁵

In addition to disenfranchising people through law and policy, felony disenfranchisement laws create additional barriers to voting. The complexity of these laws and a lack of awareness about them have caused confusion and misinformation among formerly incarcerated communities as well as probation officers and the general public. Many who are actually eligible to vote do not know they are eligible and therefore refrain from voting.

This report unpacks the issue of felony disenfranchisement in California by studying the issue from the community’s perspective, asking questions about the importance of voting among the formerly incarcerated, their current knowledge and awareness of who can vote, what their primary barriers are to voting and what suggestions they have for how to improve both access to voting and access to information about who can vote.

California Context

California’s prison population — like much of the nation’s — is disproportionately African American and Latino. According to the 2010 Census, the African American and Latino adult male population of California was roughly 5.7 million, or 15 percent of the state population,⁶ while African Americans and Latinos made up 70 percent of the adult male prison population in 2011,⁷ and 66 percent of California’s parole population in 2010.⁸ In 2010, the total number of Californians disenfranchised because of a current or previous felony conviction was 278,477. Of these, 78,164 — roughly 30 percent — were African American.⁹

Access to voting is critically important for these communities. Recent ballot propositions like California’s Proposition 36 (2012), which reformed the state’s three strikes law, and Proposition 47 (2014), which reclassifies certain drug convictions as misdemeanors rather than felonies, have a direct and relevant impact on incarcerated and formerly incarcerated people. Candidate contests for judgeships, district attorneys and legislative offices also have a significant impact on their lives and may determine whether the issues they care about will be fairly represented.

Recent policies have been passed in California with contradictory aims. First, in an effort to reduce recidivism, improve community reintegration and reduce overcrowding and unsafe conditions in California’s prisons, the governor supported and signed Assembly Bills 109 and 117, collectively known as the Criminal Justice Realignment Act, in 2011. The Act made changes to the criminal justice sentencing structure to provide additional opportunities for people convicted of low-level felonies to be supervised in their communities. As a result of the new law, in addition to probation and parole, some may now be sentenced to what is called “post-release community supervision” or “mandatory supervision” (collectively known as “community supervision”), or to a term of up to one year in county jail followed by mandatory supervision. Those on community supervision are supervised by county probation departments.

Historically, California barred only persons in state prison or on parole from voting, but the new sentencing categories caused some confusion among county election officials as to how to treat these individuals for the purposes of voting. In response, Secretary of State Debra Bowen issued a memo stating that the new sentencing categories are the “functional equivalent to parole” and that these individuals are therefore not able to vote.¹⁰ Bowen subsequently updated all public information materials concerning voting rights for Californians with criminal convictions to reflect this change.¹¹

Civil rights groups argued this was a blatant violation of the state Constitution and state law. The American Civil Liberties Union of California, Lawyers’ Committee for Civil Rights and Legal Services for Prisoners with Children filed a lawsuit challenging the memo on behalf of individuals who had lost or were about to lose their right to vote known as *Scott v. Bowen (2014)*. In May 2014, the Alameda County Superior Court ruled that Bowen illegally stripped tens of thousands of people of their voting rights.¹² That ruling would have allowed individuals on community supervision to vote in the 2014 elections, except that Bowen filed an appeal. This resulted in a stay of the court’s decision throughout the 2014 elections, which will continue until a decision is reached on the appeal. If the trial court’s decision is upheld on appeal, people on community supervision should be able to vote in time for the 2016 election cycle, but until then these individuals continue to be excluded from voting.ⁱⁱ

ⁱⁱ The lawsuit *Scott v. Bowen (2014)* does not directly challenge the constitutional right to vote of those sentenced to a term of up to one year in county jail pursuant to the new law. These individuals were also declared ineligible to vote by the Secretary of State’s memo. However, the lawsuit does challenge the legality of Bowen issuing a memo at all without going through an appropriate regulatory process.

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All 21 participants were invited to participate through community-based groups that provide direct services to formerly incarcerated communities.

Meanwhile, in 2013, Assemblymember Shirley Weber (D-San Diego) introduced California Assembly Bill 149, which sought to address misinformation and confusion about voting eligibility that effectively deters thousands of formerly incarcerated individuals from voting. In the original bill language, the California Department of Corrections and Rehabilitation would have been required to notify every person on probation and who completes parole of their right to vote. As the bill moved through the legislature, it was amended to focus only on probation. While less robust, with more than 400,000 people currently on probation, AB 149 still marked an important step toward addressing the disenfranchisement of probationers caused by lack of information about their right to vote.¹³

Beginning on January 1, 2014, AB 149 requires county probation departments to either post a link to the California Secretary of State's **Voting Rights Guide for Formerly Incarcerated Californians** on the department's website or to place a notice with a link to this voting rights guide in every probation office in their county.

AB 149 was particularly timely after the Secretary of State's memo went into effect because probation departments now serve two classes of individuals (people on probation who can vote and people on community supervision who cannot), increasing the need for clear and accurate information about their rights.

Methodology

We solicited input directly from formerly incarcerated communities in order to understand how important voting is among this community, their current knowledge and awareness of who can vote, their primary barriers to voting and what suggestions they have for how to improve both access to voting and access to information about who can vote.

We gathered this input through two small-group community input sessions, held in San Bernardino and Los Angeles Counties in May and June 2014. All 21 participants were invited to participate through community-based groups that provide direct services to formerly incarcerated communities. Each session was two hours long, consisted of about 10 people each, and was held at a community-based site familiar to the community. The small groups took part in a series of group discussion questions designed to solicit information on the topics above. Participants also completed a short survey covering demographic information and information about their voting history and experience.

Forty-three percent of our participants were African American, 24 percent were Hispanic/Latino, and 19 percent identified as white. The overwhelming majority was female, with only 29 percent of participants being male, and they represented different age groups. Twenty-four percent of our participants were between the ages of 25-34; 29 percent were between 35-44; 24 percent were between 45-55; and 19 percent were 55 or older. While not precisely representative of California's formerly incarcerated population, our small sample represented a variety of backgrounds and experiences, and thus provides a useful snapshot of attitudes and experiences in this community.

In addition to our community input sessions, we analyzed compliance with the provision of AB 149 that allows probation departments to provide notice of a person's right to vote via a link to the California Secretary of State's Voting Rights Guide for Formerly Incarcerated Californians on their websites. We wanted to learn how well this program works in reaching the target population and informing members of their rights.

A researcher visited every county probation department's website and reviewed each page to determine whether the required information was posted. If posted, we noted whether the link was to an html page on the Secretary of State's website where the visitor could download a pdf of the guide, or whether it was a link directly to the pdf of the guide. We also noted how many clicks it would take a visitor to find the information. Links posted on a probation department's homepage were classified as "one click," while links posted on a secondary page were classified as "two clicks" or more, depending on how many additional clicks a person would need to get to the information.

After compiling a list of the county probation websites with links to voting rights information, we obtained web statistics for the period of January 1 to September 30, 2014 from the Secretary of State, which included the number of page views and unique page views of the html pages that were referred from each county probation department's website. According to the Secretary of State's Office, direct visits to the pdf format guide are not traceable and were therefore excluded from our analysis.

Because so few links from the counties' websites referred any traffic, we conducted further study on only the largest two, comparing the amount of traffic each of those county links had generated to its total probation population. Assuming every referred visitor to the site was a probationer, we were able to estimate approximately how many probationers were actually made aware of their rights and what proportion of the county's overall probation population they represented.

We did not study whether the remaining counties with no link available on their websites are complying with the law by posting voting rights information in their county probation offices or how effectively that method reaches the target population. This portion of our study is not meant to be a complete account of compliance.

Findings

More than 60 percent of our participants said they have been confused at some point about their eligibility to vote due to a criminal conviction. Two sets of factors seemed to play a major role. First, these individuals' status is continuously changing. Someone who cannot vote while incarcerated for a felony will later be able to vote when they end up on probation or complete parole. So, as they move through the criminal justice system, without adequate information about their rights at each stage of the process or at least complete information from the start, they often carry outdated information into their current situation and wrongly believe what they have been told in the past continues to be true.

As one participant put it, "Once you become incarcerated they tell you, 'Well, you know you'll never vote again right?' They do not specify while on parole or three years after you get off of parole, they don't give you those in-betweens. It's just you cannot vote now that you're a felon."

Second, the information provided is sometimes plainly wrong. One participant on probation said she was told by her probation officer that she could not vote. Of course, now that probation officers supervise both individuals on probation who can vote and some on post-release community supervision who cannot, these officers may be confused about the law as well. But as one participant said, "The government has a responsibility to provide that information. If government is putting out bad information, then they should clean it up."

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Nearly a year after the passage of
AB 149, 60% of county probation
websites now link visitors to
information about voting rights.

As a result of the mixed messages they received, many said they went years without knowing they could vote. In fact, some only learned they could vote from our input session, and we had to spend some time throughout the meeting informing participants of their rights and correcting misinformation they had been given.

Assembly Bill 149 has helped get some information out about probationers' right to vote, but more is needed to reach a larger portion of the target population. Out of 58 California counties, 35 (60 percent) had a link to the voting rights guide on their county probation websites, while 23 counties (40 percent) did not.¹⁴ Of those that did, 23 (66 percent) posted the link on their home page, while 8 (23 percent) require the page visitor to navigate to a second page, and 4 (11 percent) require the visitor to navigate even further before reaching the link.¹⁵

Twenty of 35 probation websites linked to the Secretary of State's html page where visitors could read and download information about formerly incarcerated people's voting rights, and 15 linked directly to a PDF document with this information.¹⁶ Both resources provide information about voting rights for formerly incarcerated communities. We only note the distinction because the Secretary of State could not provide statistics on the web traffic generated by sites that linked to the pdf page.

Our analysis of the web statistics provided by the Secretary of State's office found that very few of the 20 counties linking to the Secretary of State's html page had referred any visitors to this voting rights information, and those whose link did generate traffic to the page generated very little in proportion to the probation population in their county.

For example, Alameda County's link led to 196 unique page visits to the voting rights page between January 1-September 30, 2014. When compared to an average of 13,179 people who were under active supervision in Alameda County during that same period,¹⁷ if we assume that every person who clicked through to the voting rights information was actually on probation, then this method reached almost 1.5 percent of people under active supervision.

Current Internet strategies do not appear to be sufficient for reaching the majority of the intended audience. Just 1,011 page visits came from Google and 261 from Yahoo.¹⁸ While these search engine sites generated a greater total number of unique page views than the links posted by county probation departments, this still amounts to just 0.3 percent of the affected population given that 400,000 Californians are on probation, and many more are incarcerated or on parole.

Officials should implement additional and complementary strategies to reach more of the intended audience.

Note: See references section, references #14, 15, 16 (starting on p. 14) for a list of counties who posted the link online, and a list of counties who require navigation to a second or third webpage before the link appears.

Formerly incarcerated communities are confused not only about who is eligible to vote, but also about what they need to do to start voting. Among those who were aware of their right to vote, some still wrongly believed they had to do something special to become a voter again. One participant said, "Prior to conviction I've voted in previous elections. I felt that my voice actually mattered on issues that were important to not only me but to my community as a whole. It gave me the opportunity to feel that I was in control over some aspect of the community by voicing my opinion. Since I completed parole I haven't actually went through the process to get my voter rights back." Another person shared, "I work with individuals who currently are paroled. Even once they are off of parole there is still a grey area of understanding what is the next step to get myself eligible to vote again. For other rights, they have to go through a whole process to get reinstated."

In California, all a person must do to get back on the voter rolls once they become eligible is complete a voter registration form — either on paper or online — with their current address. Communities need this information. The false belief that the process is complicated deters some from seeking the opportunity altogether.

Some participants proposed registering people to vote before they leave the criminal justice system, so they don't have to figure out how on their own.

Complex laws and a lack of transparency about voting rights confuse the community and create greater distrust in government. The laws about who is eligible to vote were not intuitive to our participants. One asked, "What does being on parole have to do with voting anyway? Why would you take someone's voting rights? I wasn't locked up for something to do with voting. When I got sentenced the judge didn't tell me I'm not allowed to vote. So I just don't understand that."

It was also not clear to people why those on probation could vote but not people on community supervision. As a result of the Criminal Justice Realignment Act, both groups report to probation. Several people said the Secretary of State's memo regarding voter eligibility for individuals on community supervision made things more confusing. Our sample simply didn't understand any logic behind the policies concerning who could vote, and that seemed to make it more difficult to remember the actual rules.

This contributed to a greater distrust of the system overall as participants equated complex information to a lack of transparency in government. "Honestly, I don't think they want felons voting, because they don't present that information," one person said. "When people control information, they control the people."

Nearly half of our participants indicated that voting is very important to them. Some assume that formerly incarcerated people don't care about voting, but nearly half of our participants said voting is very important to them. One woman currently on probation said: "Years ago, I voted on Prop. 36 to give people with drug convictions the opportunity to get help instead of prison, not knowing years later it would save me from prison and save my life. So I think it's very important to be able to vote. That prop going through helped me tremendously. I am on probation now, and I didn't know I could vote until now. On my probation papers it doesn't say I can vote. I felt bad because women fought so hard to vote, and I just gave it up, or that's what I thought. My friends that I work with or who are in recovery can vote, but they don't know either. Voting makes me feel like I have rights in America, and in the future my vote can help or change my children's future. I thought I could never vote because of my felonies."

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— Latino, male

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— African American, female

Another participant told us: “[Before going to jail] I used to take voting rights for granted and didn’t get involved. I was so involved with myself. Once I finally regain my right to vote it is going to be much more meaningful. Even though I cannot vote presently, I am helping other people who can vote with voter outreach and education.”

Having correct information about their voting rights had an effect on whether they were registered to vote. While 63 percent of our participants said they have been confused at some point about their eligibility to vote due to a criminal conviction, 60 percent also said they were now registered to vote, indicating that finding out they were eligible to vote led many to make the decision to register.

One participant said, “People with felonies think they can’t vote. Then there’s information out there now that is saying people with felonies can vote as long as they are not on parole or probation. I did not know that, that’s why I have not voted for a long time. If people get out there and tell people what they need to know — if they have the right information then that will make a difference.”

Another participant said, “I didn’t know I could vote until someone told me. I thought because I had a felony I could not. But when they told me if you’re off parole you can vote I was like ‘whoa you serious?’ I never knew.”

Among those that indicated they were registered to vote, 66 percent said they always vote or usually vote. Only 17 percent said they rarely voted.

Connecting candidates and issues on the ballot to issues that affect their lives was a motivator to get formerly incarcerated communities to the polls. Those who have been able to make a connection between the issues or candidates on the ballot and their lived experience felt very strongly about voting. These especially included people who had become interested in local and state ballot propositions affecting criminal justice and K-12 education, which they viewed as directly impacting them or their kids. It also included people who had learned of contests for judges or district attorneys on the ballot, which they also viewed as directly relevant.

One participant said, “If information is vague and doesn’t pertain to my certain situation I am less likely to vote. If it is something that affects me directly or indirectly via my children — the school system, education, employment factors — that is what would motivate me to get out and get voices heard.” Participants also said they were drawn to “empowering campaigns” or campaigns that talk about potential and opportunity to do something good.

In some cases, those who felt connected to ballot issues but could not vote because they were on parole found other ways to get involved: “Even though I can’t vote, I’m going through the process of who I would vote for and why I would vote for them,” one participant explained. “I’m going through the process of becoming informed. And I find that the more I am informed I come up along likeminded people and we have discussions about what’s going on in our community. In the meantime, I register other people to vote and tell them how I can’t vote so they should. It makes other people with criminal convictions more likely to share what their situation is and I am able to register those that can vote.”

Community-based groups played a key role in helping to connect the issues for individuals. Individuals who hadn’t made the connection between what was on the ballot and their lived experience generally said voting was less important to them or not a priority. In some cases, these same people had misinformation about their rights and probably hadn’t actually thought about voting in many years. Others were so deeply focused on securing housing, a job and other basic necessities in their daily lives that voting was secondary in their minds.

To reach formerly incarcerated communities with information about their voting rights, multiple messengers and strategies are needed. When we asked about whom they trust to provide information about their voting rights, some felt strongly that the government owns the responsibility and could be really effective in reaching the affected population if the Department of Corrections and Rehabilitation got involved. “When you get out, nine out of 10 people are going to try to do everything they can not to have to get locked up again. If the parole officer says, ‘this is what you have to do,’ you’re gonna do it,” said one participant. He suggested parole officers, and others who have contact with formerly incarcerated persons, be required to inform every person of their rights and help them register to vote. While some agreed with this perspective and had a decent enough relationship with their own probation or parole officers to think they could be helpful, others disagreed.

For instance, one participant said, “Why would they tell us about voting rights if they don’t even want to tell us about a bus voucher we can get?” This person felt their parole officer was not providing information about the resources to which they were entitled. Only after learning about the program or resource (like a bus voucher) from a community group did he know to ask the parole officer for that help. Another participant described being provided a packet of information about available programs and services only to find out later that none of those services were actually funded. Even if the individuals’ understanding or recollections were inaccurate, such experiences left them with little faith in the system’s ability or willingness to communicate voting rights information.

Instead, these participants said other formerly incarcerated people or community groups would be a better source of information. “Having someone like her would make me more interested in voting,” said one participant, referring to another woman in the group who spoke passionately about how she can’t vote but tries to register others. “I may not have been interested before and she might not be able to vote, but she’s so passionate about it that it would motivate me to do something.”

Based on the feedback we received, every person’s experience with their caseworker is different, and not always positive. This argues for using multiple messengers and strategies to effectively reach this population with information about voting.

Our participants had many specific ideas for how to reach different segments of the population with information about voting, using a mix of methods and messengers. These are shared in the recommendations section.

Based on the feedback we received, every person’s experience with their caseworker is different, and not always positive. This argues for using multiple messengers and strategies to effectively reach this population with information about voting.

Recommendations

Reform and simplify felony disenfranchisement laws. Felony disenfranchisement laws such as those in California, even when denial of the right to vote is temporary, can further alienate formerly incarcerated individuals, making their integration into society difficult. These communities find the laws to be arbitrary and illogical. They create greater distrust in government and a feeling that no one cares about them. According to a 2011 study, these sentiments can actually increase the chances of recidivism.¹⁹ By contrast, when civil rights are restored, evidence suggests recidivism rates decrease.²⁰

Removing felony disenfranchisement laws can lead to greater parity in voting among ethnic groups, since these laws disproportionately impact communities of color. Such an action could reduce recidivism, saving the state millions of dollars in incarceration costs. As previously mentioned, two states — Maine and Vermont — already model this by having no law restricting voting rights for incarcerated or formerly incarcerated people. California should consider removing restrictions on voting due to a felony conviction, particularly when the felony has nothing to do with voting.

At a minimum, the state should take steps to simplify the law and extend voting rights. For instance, it could extend voting rights to parolees and people on community supervision, in addition to those on probation who already can vote. By doing this, California would join the 16 other states that already allow parolees to vote, and make it clear that everyone who is not incarcerated can vote.

Another action the state should consider is passing a law to grant voting rights to all inmates in county jails. While people in county jails have traditionally been able to vote in California, the passage of the Criminal Justice Realignment Act complicated matters. For example, there may now be some felons sentenced to county jail who are not allowed to vote. This means the people who supervise county inmates now have to know who is eligible and who is not, and are at greater risk for making mistakes when informing people of their rights or facilitating voting for those who can. Considering a majority of the inmate population is awaiting trial and not even convicted, it is important to ensure that we do not disenfranchise the majority of people in county jail who have the right to vote because of complex and confusing messages that focus too much on a small minority that is excluded from voting. Passing a law clarifying that all individuals in county jails can vote would help to simplify the message.

Implement multiple strategies to notify prisoners and former prisoners about their rights at multiple stages in the process. AB 149 only addresses notification for probationers and, as currently written, reaches a very small portion of them. Even if California adopts the first recommendation to remove felony disenfranchisement laws, additional strategies will still be needed to provide inmates, parolees and people on community supervision and probation with adequate notification of their rights. Below are a few suggestions provided by formerly incarcerated individuals in our study to improve notification. We recommend adopting a mix of these strategies to ensure maximum impact and the broadest reach possible.

At a minimum, the state should take steps to simplify the law and extend voting rights. For instance, it could extend voting rights to parolees and people on community supervision, in addition to those on probation who already can vote.

Inmates

- **Provide voter education programs in prisons and county jails.** Several participants suggested starting education early while people are still incarcerated. Even if they can't all currently vote, they can be informed about their rights and know what to expect when they are released. Several participants said that during incarceration is when they have the most time to read information and are more likely to pay attention.

This information could be given using 20-second public service announcements over the intercom or on TV screens found in common areas. One participant said that the jails often run short messages over the TVs when they are about to distribute something like soap or razors. It was suggested they could do the same to let people know about an upcoming election, a time when they can register to vote, or to announce that they are about to distribute voting rights information. One participant said that some probation offices also have TV screens in waiting rooms where information could be provided.

Another suggestion was to provide informational classes for inmates: "While you're in there they have church, different classes, they can just put something in there for registering to vote or voters rights." The jails could partner with their local county elections office or with a community-based group to provide the class. Some participants suggested getting the inmates directly involved in helping with the education. "It can be part of the workmanship program where an inmate actually gets the job of doing voter registration and education," said one participant. "You could bring in someone with experience first and have the inmates train under them."

Parole, Probation, and Community Supervision

- **Provide both written and verbal information about voting rights during release from prison or jail.** Participants suggested that voting rights information be included in each "reentry plan" or "parole plan." Some even suggested that voter registration could be required as part of the terms and conditions of such plans. One participant who had been on parole said, "Thirty days before you get released you get a parole plan and the Census people give you a packet with services. You could include voter information in there too."

However, some expressed concern that important information about their rights would be tucked away in the release forms required by Section 3075.2 of Title 15. "It is written like stereo instructions. Very legal writing. If you have a literacy problem you can forget about it," one participant said. Several participants were resistant to the idea of adding any more important information to these documents, preferring to get information that was written in more plain terms via a separate pamphlet or flyer.

One participant suggested that anything included in the written release forms should be accompanied by a reading of their rights to ensure they actually hear the information. "Just like when they read you your Miranda rights, when they let you go they should read you your rights too. If they only put it in written documents you have to sign when you leave, you just don't pay attention. You are focused on just signing whatever it is and going home." There was broad support among our participants for this idea.

One participant suggested that anything included in the written release forms should be accompanied by a reading of their rights to ensure they actually hear the information.

Tying the opportunity to register to vote to the notification of a person's rights will also help address another barrier, the false belief that they have to do something special to restore their voting rights.

- **Incorporate voter information during routine fingerprint scans.** One participant explained that those who complete parole and go on probation, must do a fingerprint scan once per month, and that during that scan, probationers are asked a series of five questions. “What’s another five seconds to ask ‘do you know that you can vote as soon as you get off X date?’ and put that in the kiosk because everyone has to do that. It’s mandatory, once a month. You could even add the option to register to vote on that kiosk if you wanted.”
- **Make sure parole and probation officers are properly trained and informed on the topic of voting rights.** Agencies like probation departments that are required to provide written notice of a person’s voting rights must ensure that their officers know this information. While there may be a notice posted on a website or in their office, inaccurate information from the officers themselves can undo whatever good such notices accomplish. These agencies should ensure that all employees who have direct contact with the public are properly informed and can properly inform others.
- **Do a direct mailing to formerly incarcerated persons.** Some suggested mailing formerly incarcerated individuals directly with information about their voting rights and a voter registration card. This could help reach people who no longer have contact with probation or parole because they have been out of the system for a number of years, but may still be misinformed about their right to vote.

Provide complete notice of a person’s rights, including information about the length of time their rights are taken away and when they will be restored. Regardless of how and when notice is provided, complete information about the term during which a person’s voting rights are revoked and when they will be restored is critically important. Clear, specific information can prevent thousands from carrying forward false beliefs and outdated information about their rights based on something they were told at one point during their stay but which no longer applies at a later date.

Provide an opportunity to register to vote for those who are eligible, upon notification of their rights. Tying the opportunity to register to vote to the notification of a person’s rights will also help address another barrier, the false belief that they have to do something special to restore their voting rights. Simply handing the person a voter registration card when they are given information about eligibility will make it clearer that all they need to do to become a voter is complete the registration form.

There is already excellent guidance for how to incorporate voter registration at public agencies in the National Voter Registration Act. The state legislature or Secretary of State could simply deem the California Department of Corrections and Rehabilitation a public assistance agency under the NVRA and require it to provide a registration card to every eligible person under their supervision.

Invest in strategies and organizations that educate formerly incarcerated communities about their rights, how to get involved in voting, and help connect issues and candidates on the ballot to their lives. Philanthropic organizations should invest in groups that are trusted among the formerly incarcerated community and employ other formerly incarcerated people to do peer to peer education. These trusted entities play a key role in connecting the issues on the ballot to issues that affect the communities they serve, making voting seem more relevant and increasing the likelihood that these communities not only register, but actually vote.

Publicize information about formerly incarcerated voters’ rights to the broader public. Misinformation is not only rampant in the formerly incarcerated community, but also among the broader public. Even if notification strategies are implemented as suggested above to target incarcerated and formerly incarcerated communities, misinformation and false beliefs among the general public will continue to cause confusion for all.



**PUBLIC SERVICE ANNOUNCEMENT:
KNOW YOUR VOTING RIGHTS**

Thousands of people may not know their voting rights, especially the formerly incarcerated. The San Francisco Sheriff’s Department (SFSD) reaffirms our continued efforts to ensure that incarcerated and formerly incarcerated persons have the opportunity to exercise their Constitutional right to vote in our local, state, and national elections. The SFSD has been a state leader in facilitating the registration and voting process for eligible inmates, serving 1,484 incarcerated voters in the past two years.

In California, an inmate may register to vote unless he or she is in state prison, on parole, or serving a state prison term in county jail pursuant to the Realignment Act of 2011. The inmate voter must also be a U.S. Citizen, a resident of California, at least eighteen years of age on or before Election Day, and must not have been declared mentally incompetent by a court.

“The San Francisco Sheriff’s Department continues to shine a spotlight on the American Democratic process, and measures to safeguard against voter disenfranchisement. We carry this outlook in the jails and in our post release operations so that we can ensure that all eligible persons, incarcerated and formerly incarcerated, retain and exercise their right to vote,” said Sheriff Ross Mirkarimi.

The formerly incarcerated who have completed their sentence may register to vote unless they are currently on parole or mandatory or post release community supervision pursuant to the Realignment Act of 2011. Individuals on probation may register to vote. It is important to remember that a felony conviction does not automatically disqualify a person from voting.

For more information regarding inmate voting, please visit our website at: www.sfsheriff.com or call us at 415-575-4365 for more information.

The November 2014 official voter’s guide for San Francisco included a one page public service announcement titled “Know Your Voting Rights” with information on the voting rights of formerly incarcerated communities and the logo of the Sherriff’s office. The notice begins, “Thousands of people may not know their voting rights, especially the formerly incarcerated. The San Francisco Sherriff’s Department (SFSD) reaffirms our continued efforts to ensure that incarcerated and formerly incarcerated persons have the opportunity to exercise their Constitutional right to vote in our local state and national elections.” It proceeds to inform voters of who is eligible to vote, and provides a website and phone number for more information (see full notice above).

Sharing information with the broader public via notices in the voter guide, in local and ethnic media and through other channels will help to reduce misinformation in the broader communities in which the formerly incarcerated live.

Conclusion

Formerly incarcerated communities care about voting and have a lot at stake in candidates and proposals on the ballot. A little information about their right to vote and how to vote goes a long way in getting this population registered to vote. Still, we need a more comprehensive system for getting this information to them.

We can learn a lot from the community feedback about how to be more effective at providing this information and actually getting formerly incarcerated people to vote. First, we need to meet communities where they are, which means repeating the information in multiple places through multiple messengers. We also need to ensure that complete information is given every time, and to provide a direct opportunity to register to vote as these individuals become eligible. Accountability systems must be created for this to work, with proper training for those who have direct contact with the community, and evaluation metrics to ensure the intended audience is served.

By adopting these recommendations, California can lead the way in voter enfranchisement and become a counterexample to vote suppression seen in all too many other states.

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¹⁴The 35 counties with a link to voting rights information online are: Alameda, Amador, Butte, Colusa, Contra Costa, El Dorado, Imperial, Kern, Lassen, Los Angeles, Madera, Merced, Monterey, Orange, Placer, Plumas, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Shasta, Sierra, Siskiyou, Sonoma, Stanislaus, Tehama, Trinity, Tulare, Tuolumne, Ventura and Yolo.

¹⁵ Eight counties that require a visitor to navigate to a second page to view voting rights information link are: Amador, Imperial, Kern, Merced, San Diego, Santa Clara and Stanislaus. Four counties that require a visitor to navigate to a third page before viewing voting rights information link are: Butte, Monterey, San Bernardino and Tulare.

¹⁶ The 20 counties that posted a link to the Secretary of State’s html page are: Alameda, Amador, Contra Costa, Imperial, Kern, Lassen, Merced, Monterey, Riverside, San Bernardino, San Diego, San Joaquin, Santa Barbara, Santa Clara, Siskiyou, Sonoma, Tehama, Tulare, Tuolumne and Yolo.

¹⁷ Data provided by the Alameda County Probation Department for the period January 1, 2014-September 30, 2014. The figure used represents the average number of persons under active supervision during those months.

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Acknowledgments

About The Greenlining Institute

Greenlining is the solution to redlining. We advance economic opportunity and empowerment for people of color through advocacy, community and coalition building, research, and leadership development.

About the Claiming Our Democracy Program

A strong and effective government is fundamental to achieving economic opportunity for communities of color. Government should serve the needs of an increasingly diverse America; it shouldn’t govern on behalf of wealthy special interests at the expense of ordinary people. To do this well, the voices and experiences of communities of color must be able to inform the dialogue. Greenlining’s Claiming Our Democracy program strives to ensure that communities of color and low-income Americans are able to make their voices heard in our electoral process and the halls of government.

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Michelle works to strengthen democracy by ensuring that communities of color have a voice in the decisions that affect their lives. In 2010-11, she led a statewide campaign to involve an unprecedented number of people of color in California’s process of redrawing the state’s legislative and congressional districts — the first time districts were drawn by a citizen commission. As a co-founding member of the Future of California Elections Collaborative, Michelle also partners with county election officials, civil rights and good government groups to improve the state’s voting materials and identify what’s working and what’s not in election administration for communities of color. Michelle earned her B.A. from the University of California, Santa Cruz, where she organized state and national campaigns for higher education and immigrant rights. Currently, Michelle serves on the board of California Common Cause and on the Language Accessibility Advisory Committee to the California Secretary of State.

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