VOTER DISENFRANCHISEMENT

A Paper
Submitted to the Graduate Faculty
of the
North Dakota State University
of Agriculture and Applied Science

By

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In Partial Fulfillment of the Requirements
for the Degree of
MASTER OF SCIENCE

Major Department:
Criminal Justice and Political Science

April 2010

Fargo, North Dakota

North Dakota State University
Graduate School

Title

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The Supervisory Committee certifies that this ***disquisition*** complies with North Dakota State University's regulations and meets the accepted standards for the degree of

MASTER OF SCIENCE

ABSTRACT

Peterson, Timothy Walter; MS., Department of Criminal Justice and Political Science; College of Arts, Humanities, and Social Sciences; North Dakota State University; April 2010. Voter Disenfranchisement. Major Professor: Dr. Kevin Thompson.

This paper examines the policy of voter disenfranchisement and how it disproportionately affects minorities. Voter disenfranchisement is the denial of voting rights to the criminally convicted. The research indicates African Americans are significantly disproportionally affected by this policy when compared to white Americans. Currently, the United States Supreme Court has allowed states to incorporate their own policy for disenfranchising felons residing in their state. The recommendation of this paper is to create a uniform policy for voter disenfranchisement among the fifty states, which would allow for any eligible voter living in the community to vote. The policy would only deny voting to those that are incarcerated. This recommendation is based on the belief that voting is a fundamental right and that the current policy disproportionately affects minorities. Also, implementation of this policy would be cost effective for states because tracking disenfranchised community members would no longer be needed.

ACKNOWLEDGMENTS

I would like to make a special thank you to my committee advisor, Dr. Kevin Thompson, for his patience and continued words of encouragement throughout the long process. His insight helped to create a foundation for my paper. He had the opportunity to read over multiple drafts and somehow managed to always find something positive in my writing. I also would like to thank the committee members Dr. Amy Stichman, Dr. Eric Raile, and Dr. Christina Weber for their dedication and commitment. Each member of the committee provided invaluable suggestions and guidance. Their insight was extremely important in the completion of this paper. The four members of this committee worked well together and their advice significantly strengthened my policy paper. Thanks again for your hard work over the last years.

Finally, I would like to thank my wife and son for their support during my tenure at NDSU.

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INTRODUCTION

Voting has been under a great deal of scrutiny since the 2000 presidential election. In 2000, Florida and Ohio were swing states, which were carried by the Republican candidate George W. Bush. In Florida, George Bush won by a margin of only 538 votes (Preuhs 2001). Across the nation an estimated 4.7 million or 2.3 percent of eligible voters were declared disenfranchised because of felony convictions (Uggen and Manza 2002; Manza and Uggen 2006). Research indicates that hundreds of thousands of these disenfranchised individuals were residing in the state of Florida (King and Mauer 2004).

Restoring voting rights to certain United States citizens, eighteen years of age and older could possibly have changed history. In fact, if combining the felon population in Florida and the voting tendencies of blacks and whites reported by the Voter News Service, Al Gore would have been the hypothetical winner. If only eight-tenths of one percent of adult male felons participated in the 2000 election, and if sixty percent of the white population supported Republican candidate George W. Bush and if a modest eighty percent of the black population would have supported Democratic candidate Al Gore, Mr. Gore would have won the state of Florida (Preuhs 2001).

This paper is going to address the policy of voter disenfranchisement and how it affects millions of Americans. It is also going to explain how this policy unequally affects ethnic minorities. The overall purpose of this paper is to educate on this policy, but also to consciously decide if this policy needs to be changed. My view is that the current policy on voter disenfranchisement infringes on citizen's right to vote and changes need to be made.

Felony voter disenfranchisement is the denial of voting privileges for the criminally convicted (Crutchfield 2007). Convicted felons lose their privilege to vote because of a clause in the Fourteenth Amendment. Within the second section of this amendment, the clause contains the phrase "for participation in rebellion, or *other crimes*" (Preuhs 2001). Because of this phrase, the United States Supreme Court has upheld felony disenfranchisement laws. Based on the Constitution of the United States, this clause applies to all United States citizens, male or female, at least eighteen years of age, and of any race, color, or ethnicity (Cullop 1999).

For clarification purposes, a "felony" refers to a crime in which an imprisonment of one year or more may be imposed. A "misdemeanor" refers to a crime that carries a maximum sentence of ninety days or less in jail and/or a fine of one-thousand dollars or less (Minnesota Criminal Code 609.02). Some typical felonious crimes include: grand theft auto, murder, rape, illegal drug use/sales, arson, battery, and burglary. Typical misdemeanor crimes include: petty theft, prostitution, public intoxication, simple assault, disorderly conduct, trespassing, vandalism, and drug possession. The classification of crimes (felony and misdemeanor) is not universal and may vary by state and federal jurisdiction.

Felony convictions generally carry sanctions beyond fines or imprisonment such as loss of rights. In Minnesota and many other states, individuals convicted of felony criminal offenses are ineligible to possess firearms for the remainder of their lifetime (Minnesota Criminal Code 609.165). Typically, the other major punishment beyond standard fines and imprisonment is denial of voting rights.

In North Dakota, outlined in the Century Code, a "person sentenced for a felony to a term of imprisonment, during the term of actual incarceration under such sentence, may not vote in an election or become a candidate for or hold public office (North Dakota Century Code 12.1-33)." However, according to the Century Code, "the sentence shall state that the defendant's rights to vote and to hold any future public office are not lost except during the term of any actual incarceration and that he/she suffers no other disability by virtue of his conviction and sentence except as otherwise provided in such sentence or by law (North Dakota Century Code 12.1-33-03)." The Code also states if the sentence for the crime was imposed on the individual in another state or in federal court, the convicted person will only lose the right to vote while incarcerated. Also within this code, "any person who has been sentenced in another state or in a federal court to a term of imprisonment and who is present in this state shall be presumed to have had such rights restored (North Dakota Century Code 12.1-33-03)." Lastly, if another state having a similar statute issues a certificate of discharge to a convicted person stating their rights have been restored, a person's right to hold office and vote will be restored in North Dakota (North Dakota Century Code 12.1-33-03).

Typically, within a democratic society, such as the United States, punishment such as prison, fines, probation and house arrest, usually serve as a means of limiting legal rights for convicted felons. Fines serve to strip economic gain and rights. Probation serves to restrict the right of association, the right to bear arms, and the Fifth Amendment right against self-accusation. Those under house arrest lose their freedom to travel and associate freely. Prison incarceration is the most restrictive in terms of punishment because it denies

the prisoners right to vote, the right to pursue happiness, freedom from arbitrary search and seizure and limits their rights for freedom of speech.

POLICY RECOMMENDATION

Voting rights should be expanded to include all persons living within the community, including those on probation and parole. Specifically, individuals over eighteen years of age that are legal residents of the United States and are not incarcerated in either jail or prison should have a right to vote. First, disenfranchising these individuals presents multiple practical challenges for election officials. In many states, database technology is not available to provide election officials properly informing them if the voter applicant is currently serving a felony sentence. In addition, persons on probation and parole often have difficulty obtaining the proper documentation demonstrating they have completed their sentence. For this reason, permitting voting to all non-incarcerated persons would place the same requirements on registration for people on probation and parole as for any other potential voter. Extending voting rights to these persons would also serve as a rehabilitative function (King and Mauer 2004).

Passage of this policy must be completed through the U.S. Legislature by passing a bill. Once the bill is passed, the Federal government would delegate each state to ensure individual's voting rights are restored. Implementation of the new policy would be cost effective for states because there would be no need for tracking systems. There would be no new incurred costs to states from this policy. The individual would be responsible for registering, which is the current policy in states.

One limitation for implementing this policy would be convincing Congressmen to propose and pass the necessary bill requiring enfranchisement of voting rights. Another limitation is convincing Congressmen and the general public that restoring voting rights to

this group of American citizens will have minimal effect on the majority of the outcomes of any given election.

The process of transitioning states to accept and practice the policy would require some use of federal dollars by providing states with information that this policy would actually save them money. The cost saving campaign to transition states would cost between three and five million dollars, which is a minor cost for the Federal government.

Currently, there are fourteen states that practice the recommended policy. Therefore, the campaign would focus on the thirty six other states. If the states are not convinced to change by the cost saving campaign, then a contingency plan would begin. Each state that does not comply with the recommendations of the policy would be experiencing a twenty percent drop in Federal Prison funding. This dollar amount would vary between states because the federal allocation amount is based on population size.

LITERATURE REVIEW

UNITED STATES SUPREME COURT CASE

In the case *Richardson v. Ramirez (1974)*, the United States Supreme Court upheld felon disenfranchisement measures by interpreting voting bans as an "affirmative sanction" based solely on the intent of the Fourteenth amendment (Uggen and Manza 2003). After completing their sentences and paroles, three individuals, after registering to vote in their respected California counties, were refused registration, because of their felony convictions. These individuals brought a class petition, on behalf of themselves and all other ex-felons in the same situation for a writ of mandate in the California Supreme Court. The defendants named in the suit were the Secretary of State and the three county election officials who denied them voter registration. The defendants challenged the constitutionality of disenfranchisement from the provisions of California's Constitution and all other statutes that disenfranchise ex-felons (*Richardson v. Ramirez*).

The three county officials named as defendants decided not to contest the action, and told the court they would register ex-felons, including the respondents, whose sentences and paroles had expired. Before the return date of the writ, the court added another county election official to the named defendants. However, this official was the defendant in a similar case involving an ex-felon, which was a case pending in the State Court of Appeals. After holding that the three first-named county officials' acquiescence did not render the case moot, the California Supreme Court went on to hold that the constitutional and statutory provisions in question, as applied to ex-felons whose sentences

and paroles had expired, violated the Equal Protection Clause of the Fourteenth Amendment, but did not issue the peremptory writ (*Richardson v. Ramirez*).

The decision of the Supreme Court of the United States was a six to three decision, stating that ex-felons could be barred from voting without violating the fourteenth amendment. Justice Rehnquist, joined by Chief Justice Burger, Justice Stewart, Justice White, Justice Blackmun, and Justice Powell were in the majority decision. Justice Marshal, joined by Justice Brennan, and Justice Douglas were in the dissent.

In Justice Thurgood Marshall's dissenting opinion of this case, he cited earlier Supreme Court decisions which stated that "the right to vote is of the essence of a democratic society, and any restriction on that right strike at the heart of representative government" (Brenner and Caste, 2003). However, according to Justice Marshall this right to vote is not absolute; he later states that he allows that the right to vote may be reduced with a "compelling state interest," which must meet three tests.

First, the act of disenfranchisement must be necessary to a legitimate and substantial state interest. Second, the exclusion must be extremely precise; that is, it must not exclude people that do not need to be excluded. Third, there must be no other reasonable methods to achieve the state's goal with a lesser burden on the constitutional rights (Brenner and Caste, 2003).

Justice Marshall focuses on the second and third points and agrees that the state has a valid interest in preventing voter fraud; however, he argues that restriction is both over inclusive and under inclusive. Justice Marshall states, "The provision is not limited to those who have demonstrated a marked propensity for abusing the ballot by violating

election laws. Rather, it encompasses all former felons and there has been no showing that ex-felons generally are any more likely to abuse the ballot than the remainder of the population" (Brenner and Caste, 2003).

He stated the restriction is inclusive because many who are actually convicted of voting fraud "are actually treated as misdemeanants and are not barred from voting at all." Regarding the third test, Justice Marshall says that modern technological advances, combined with the "panoply of criminal offenses available to deter and to punish electoral misconduct" provide a sufficiently acceptable alternative in protecting the state's interest for the loss of voting. Therefore, if it is the state's interest to prevent voting abuse, denying ex-felons the right to vote does not accomplish this goal, because this rule applies to a large number of those who pose no real threat to this interest, but it ignores a significant portion of the people that do pose a threat (Brenner and Caste, 2003).

PUNISHMENT AND VOTING RIGHTS

Traditionally, there have been four major justifications for incarceration: rehabilitation, deterrence, retributivism, and incapacitation. First, rehabilitation theorists tend to focus on reforming inmates so they can be law-abiding citizens when they reenter society (Brenner and Caste, 2003). Allowing felons to vote while residing in society will have a favorable effect of encouraging an acceptance of the law and the legal system. More importantly, granting voter rights to felons may demonstrate to them that they are not forgotten and that the free society recognizes them as a group of people with rights (Brenner and Caste, 2003).

According to Douglas R. Tims, the disenfranchisement of an ex-felon leads to some socially unacceptable results. He states that the process of rehabilitation for ex-felons is essential to the psychological, sociological, and educational preparation of the convict so they can prepare for full reinstatement into society after service of their term. Perpetual disenfranchisement not only does not serve as a rehabilitative function, but it also slows the rehabilitative process and stigmatizes the individual for life (Tims, 1975).

This idea of stigmatizing the individual described by Tims is important; because he is arguing the faster the voting rights are restored the less the individual will be stigmatized from society. Therefore, reinstatement of voting rights immediately following incarceration is imperative for full functionality back into society.

Second, deterrence is another common reason for punishment. The ideals of deterrence date back to the eighteenth century with the writings of Cesare Beccaria in Italy and Jeremy Bentham in England, who were both utilitarian social philosophers. The basic premise of classical criminology is that persons make decisions based on free will. The decision to obey or violate the law is calculated by the level of risk associated with the amount of pain versus pleasure derived from the act (Akers and Sellers, 2009).

From this perspective, it is believed that criminals will consider the legal sanctions and the likelihood they will be caught for the act. If they believe that the legal sanctions and penalties surpass the possible gain, then they will not commit the act. Their contemplation to commit the act is based on their own personal experiences with criminal punishment, their knowledge of what punishment is imposed by the law, and their

awareness of what criminal punishments have been given to convicted offenders in the past (Akers and Sellers, 2009).

According to Bentham and Beccaria, the punishment must fit the crime. However, punishment that is too severe is unjust and punishment that is not severe enough will not deter. An assumption made by this argument is that the amount of gain or pleasure derived from committing a criminal act is roughly the same for every person.

The severity of a punishment is not the only aspect of deterrence; punishment must also be swift and certain. Certainty refers "to the probability of apprehension and punishment for a crime (Akers and Sellers, 2009)." Both Becarria and Bentham felt that certainty in punishment of a crime is more effective in deterring crime than the aspect of severity (Akers and Sellers, 2009).

Celerity refers "to the swiftness with which criminal sanctions are applied after the commission of crime (Akers and Sellers, 2009)." According to Becarria, the interval of time between crime and the start of the punishment is extremely important. He believed that an immediate punishment was more useful because it will create a more lasting effect on the criminal when referring to the two ideas of crime and punishment (Akers and Sellers, 2009).

The third reason for punishment is retribution. F.H. Bradley, sums up retribution by stating that punishment is punishment, but only when it is deserved. He also states that "we pay the penalty because we owe it and for no other reason whatever than because it is merited by wrong, it is a gross immorality, a crying injustice, an abominable crime" (Bradley, 1927). He concludes by saying that just because people have the right to punish,

doesn't mean that they should punish individuals based on external factors. According to the research in this paper, punishment appears to be based on external factors, because African Americans statistically have much higher rates of punishment than other races or ethnic groups.

Immanuel Kant offers another view of retribution. According to Kant, the law of retribution states that whatever evil is inflicted on others is inflicted on oneself. This type of retribution can only be decided on by a formal court. Also, according to Kant, his view of retribution relies on a form of universal harmony which must be enforced by the state, and justice is only maintained if the criminal is punished in a manner that fits the crime (Brenner and Caste 2003).

The fourth reason for punishment in reference to the disenfranchisement of prison inmates is incapacitation. James Q. Wilson argues that the state should have the right to incarcerate career criminals for an extended period of time to protect society from continued criminal activities (Wilson, 1975). It also may be argued that felons on probation and parole, or living within society should be prevented from voting in order to stop election fraud based on their criminal history. In the case, *Kramer v. Union School District*, the court recognized that "disenfranchisement might have been necessary as a nineteenth century electoral precaution." However, with the modern advancement of various technological developments in today's election process and the various election reforms that have followed, election fraud is greatly diminished.

In conclusion, based on the four principles of punishment, rehabilitation, deterrence, retributivism, and incapacitation, there is little justification for disenfranchising

felon's voter rights while they are residing within society. Voter disenfranchisement fails as a means of rehabilitation, because it denies the right to vote. According to Tims, this has a negative effect on the reintegration process for felons. Deterrence also fails; because if serving a prison term, probation and parole, or sanctions such as house arrest don't serve as a severe enough punishment to deter crime, then it is unlikely that adding disenfranchisement will achieve this goal. Retribution fails as well because retributivist theory says there must be a balance between crime and punishment, and it is unlikely the punishment of disenfranchisement fits the crime for which it is imposed. Last, incapacitation fails to justify disenfranchisement, because with the modern election technology, election crimes are rare and unlikely to have an effect on the election (Brenner and Caste, 2003).

VOTER DISENFRANCHISEMENT IN THE 50 STATES

Voting disenfranchisement laws are statutory laws and the states have used the Fourteenth amendment clause to establish five levels of disenfranchisement. The first level is "none," which means that there is no current voter disenfranchisement law within state; however, there are only two states, Maine and Vermont that employ this category. (Uggen and Manza 2003). Next, "prison inmates," consisting of states that disenfranchise felons during the period of prison incarceration, contains a total of fourteen states including North Dakota. Third, "prison inmates and parolees," include five states and consist of voter disenfranchised felons that can't vote while incarcerated in prison or on parole. The fourth level of voter disenfranchisement is "prison inmates, parolees, and probationers," consisting of fifteen states and represents the states that do not allow prison inmates,

parolees or individuals on probation to vote (Uggen and Manza 2003). The last level of voter disenfranchisement is "prison inmates, parolees, probationers and some or all ex-felons," consisting of fourteen states that ban voting rights for prison inmates, parolees, probationers, and some or all ex-felons (Uggen Manza 2003).

OTHER NATIONS' POLICIES

The act of disenfranchisement for felons has been around for much longer than the United Sates has been a nation. In fact, criminal disenfranchisement dates back to Roman, European, and English law (Ewald 2002; Pettus 2002). However, "no other contemporary democracy disenfranchises felons to the same extent, or in the same manner, as the United States" (Fellner and Mauer 1998). In Finland and New Zealand, criminals of election offenses may be disenfranchised beyond their sentence, but only for a few years (Fellner and Mauer 1998). In Germany, a judge has the authority to impose disenfranchisement for certain offenses, but only for a maximum sentence of five years (Demleitner 2000). France only disenfranchises individuals who are convicted of election offenses and abuse of public power. Ireland and Spain allow prisoners to vote, and in Australia, a mobile polling staff visits prisons so inmates are allowed to cast their vote (Australian Electoral Commission 2001). In 1999, South Africa granted prisoners a right to vote and in October 2002 (Allard and Mauer 1999), the Supreme Court of Canada ruled that prison inmates may vote in federal elections (*Sauve v. Canada*, 2002 S.C.C. 68 2002).

Still, other countries have different disenfranchisement policies for prisoners. Prisoners are allowed to vote in the European countries of: Bosnia, Croatia, Cyprus, Denmark, Iceland, Finland, Latvia, Lithuania, Macedonia, Netherlands, Poland, Slovenia,

Sweden, Switzerland, and Ukraine. Also, there are no voting restrictions on prisoners in India, Israel, Japan, Peru, Puerto Rico, South Africa, Trinidad & Tobago, and Zimbabwe. However, there are several countries that have policies similar to the United States which do not allow for prisoners to vote such as Armenia, Bulgaria, the Czech Republic, Estonia, Hungary, Luxembourg, Romania, and Russia (*Sauve v. Canada*, 2002 S.C.C. 68 2002).

HISTORICAL BACKGROUND ON VOTING RIGHTS

The act of disenfranchisement originated back in ancient Greece. Ancient Greek laws existed where certain offenders forfeited all their common civil rights, which included rights to property and possessions, rights to inherit, and the right to bring suit (Kleinig and Murtagh, 2005).Voting privileges for Americans date back to the formation of our country and the U.S Constitution of 1787, which neither granted nor denied anyone the right to vote. Over time, states have granted suffrage to certain groups such as women, but have eradicated certain voting limitations for others which include convicted felons (Behrens, Uggen and Manza 2003). The onset of disenfranchisement laws began in the 1840s (Keyssar 2000); however I was unable to find any reasons why disenfranchisement laws began during this era. A second wave of disenfranchisement laws began during and after the reconstruction process in the South. Primarily states in this region, began passing laws restricting rights for individuals who obtained felony convictions. Passage and enforcement of these laws resulted in a significant increase in disenfranchised African American voters (Manza and Uggen 2004).

African Americans suffered for hundreds of years under American laws, but change was inevitable and long over-due. It wasn't until the passage of the Fourteenth

Amendment (1868), which defined national citizenship and the passing of the Fifteenth Amendment (1870) which prohibited the denial of suffrage to citizens "on the account of race, color, or previous condition of servitude" (Behrens, Uggen and Manza 2003), that African Americans were officially granted noticeable rights.

For women, I was unable to find specific voting percentages. Overall there is little research on voting turnout. However, according to the U.S. Census (2000), forty-four percent of African American family households are headed by female single parents. According to Field and Casper (2001), there were roughly three million single black mothers and 1.7 million of them living in central cities. Research conducted by Plutzer and Wiefek from the 1979 National Survey of Black Americans, indicated that during the 1964-1976 presidential elections the turnout rate for African American women was about sixty-two percent. This research also indicated that during the 1984-1996 presidential elections the voter turnout rate for African American women was about sixty-five percent. However, Plutzer and Wiefek conducted an analysis on 754 mothers living in Chicago that were interviewed as part of a 1967-1976 Woodlawn Community Study. This study was a two-wave, eight year panel study of Chicago families containing information on marital and family transitions, socioeconomic status, and turnout (Kellem, Branch, Agrawal, and Ensminger 1975). The results that Plutzer and Wiefek concluded from their analysis indicate that single mothers have lower rates of political and voter participation, and with the continued increase in male inmates, especially African American inmates, political participation for women will continue to decrease (Plutzer and Wiefek 2006).

At the end of 2004, an estimated 792,200 women were ineligible to vote resulting from disenfranchisement laws (Manza and Uggen 2006). This number represents 0.71% of the total female voting age population, or 1 in 141 women. Of the 792,200 women, about 279,800 were African American females and about 512,400 were non African American females (Manza and Uggen 2006).

TARGET AUDIENCE

Following the Civil War, African Americans experienced the ratification of Black Codes and later Jim Crow Laws that effectively tried to combat blacks from obtaining political power (Woodward 2001). As America evolved, newer policies were enacted to further limit African American rights. Even though felon voting disenfranchisement was the first widespread set of legal disenfranchisement laws placed on African Americans, there were many other legal barriers that followed. These other barriers, which started primarily after 1890, included poll taxes, literacy tests, "grandfather" clauses, discriminatory registration requirements, and white-only primaries (Perman 2001; Redding 2003).

However, the most restrictive of any of these laws, is the voter disenfranchisement for ex-felons. These laws, most of the time, place life-long bans on felons from voting. The banishment of ex-felons predates the early 1800s, but it wasn't until the 1850s, where one-third of the states enacted this law, when large portions of the population were not able to vote. (Uggen and Manza 2003). By 1920, nearly three-fourths of all states had ex-felon voter disenfranchisement laws. There were little changes to disenfranchisement laws throughout the middle of the twentieth century and it wasn't until the 1960s and 1970s that

some states began removing the restriction for ex-felons and restoring voter rights to some or all ex-felons (Uggen and Manza 2003). The last state to pass a broad ex-felon disenfranchisement law was Hawaii in 1959 (Uggen and Manza 2003).

During the nineteenth and twentieth centuries, "advocacy of racial segregation and the superiority of whites was both widespread and explicit (Mendelberg 2001)." This movement resulted in Jim Crow Laws being placed on the forefront of state legislation. It wasn't until passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, that African Americans began to get their rights back (Bobo and Smith 1998).

Currently, thirteen percent of African American men are disenfranchised (1.4 million). This represents about thirty-six percent of the total disenfranchised population (Fellner and Mauer 1998:1). More than twenty-five percent of adult black men are permanently disenfranchised in Alabama, Iowa, Mississippi, New Mexico, Washington, and Wyoming (Fellner and Mauer 1998:2). In the state of Florida, one-third of adult African American males are voter disenfranchised because of felony convictions (Fellner and Mauer 1998:2). The African American population is not the only minority population to experience ill effects from voter disenfranchisement laws. It is estimated that felon disenfranchisement laws affect 1.32 percent of the Latino voting age population, compared to only .63 percent of the white voting age population (Delisi 1999:8).

A study was conducted by Holona Leanne Ochs which focused on the racial consequences of disenfranchisement policy. This study compares "the impact that the severity of felon disenfranchisement has on the disenfranchisement rate for blacks compared to the disenfranchisement rate for whites (Ochs, 2006)." The theory presented

in this article by Ochs is that political majorities continue to use political influence deflating the impact of minorities, securing social control and legitimacy, which is accomplished through formal and informal institutions.

In her study, Ochs utilized two models using the same independent variables to demonstrate the disparate impact on felon disenfranchisement laws in 1999 (Ochs, 2006). In the first model, the dependent variable represented the black disenfranchisement rate, while the dependent variable in the second model represented white disenfranchisement rates. Her first step included an analysis of the difference between the means of black and white rates of disenfranchisement. She conducted a two sample t-test and found that black disenfranchisement rates were significantly higher than white disenfranchisement rates (Ochs, 2006).

In the second model she created a table based on the 1999 felon disenfranchisement laws by state. She explained that felon disenfranchisement laws are strictly based on severity and that severity in her table measured "degree of revocation of rights and the difficulty with which reinstatement may occur" (Ochs, 2006). This table consisted of nine categories ranging from "no restriction" to "never reinstated."

In conducting the study, her dependent variables were black disenfranchisement rate and white disenfranchisement rate, ranging from zero to one hundred. She estimated two multivariate tobit models of the independent effects of each variable. According to Ochs, the tobit procedure was appropriate because "the model assumes the limits of the dependent variable when the dependent variable is censored, allowing the model to handle

truncated or censored data better than OLS" (Ochs, 2006). The design consisted of a cross-section of state level data collected from 1999.

The results of this study supported the hypothesis and indicated that the severity of felon disenfranchisement laws significantly impacts the black disenfranchisement rate. The results also supported the hypotheses related to the black disenfranchisement rate and the secondary variables. The increases in the corrections ratio dramatically increased the black disenfranchisement rate (Ochs, 2006). The results of the second model indicated that the severity of the white disenfranchisement policy has little effect on the disenfranchisement rate for whites. Also, the results indicated that as white disenfranchisement rates significantly increased, the corrections ratio decreases. Basically, the results from these two models indicated that when policies become more severe the black disenfranchisement rate significantly increases, but there is little or no effect for the white disenfranchisement rate for severe policy increases.

In conclusion, the two models demonstrate that felon disenfranchisement laws disproportionably affect the black community as disenfranchisement laws increase in severity. These laws significantly affect the voting rights in the black communities and are not present in the white communities. From this study, the analysis suggests that "disenfranchisement laws specifically target black voters and disparately impact the black disenfranchisement rate" (Ochs, 2006).

EXPLANATION FOR FELON DISENFRANCHISEMENT POLICY

RACE-BASED EXPLANATION

Race has been considered a valid argument for the adoption policies because of the disproportionate number of African American and Latino Americans unable to vote (Harvey 1994; Shapiro 1993). Also, according to Hill (1994), states have historically used procedures and policies restricting minority political participation. In addition, empirical studies "often find a strong link between the size of a state's minority population and public policies in the state that directly or indirectly affect racial minorities to a greater degree than whites" (Preuhs 2001).

Dating back to early research on southern politics (Key 1949) to more recent research on state political issues throughout the nation (Fording 1997; Hero 1998; Hero and Tolbert 1996; Radcliff and Saiz 1995), a state's racial composition consistently explains a significant number of policy provisions. The overall findings support a policy-oriented variation of the racial threat hypothesis, which refers to the idea that larger minority populations lead white lawmakers to impose policies that undermine the interests of minority citizens, either in terms of participatory rights or distribution of policy benefits (Preuhs 2001). This idea has been developed based on the result of competition over political, social, and economic resources, with the more politically involved group, typically whites, trying to preserve their political or relative power (Blalock 1967; Fording 1997; Keech 1968; Radcliff and Saiz 1995). "Another variant of the racial threat hypothesis predicts a curvilinear relationship in which white resistance increases at first,

and then diminishes as minorities become sufficiently powerful to induce coalition building or attain outright control of political institutions" (Preuhs 2001).

There is evidence supporting a race-based explanation for felony disenfranchisement policies. The last two states to impose voter restrictions on incarcerated felons during the last few years were Utah (1998) and Massachusetts (2000); states where the black and Latino populations have risen in the past decade. In Utah, the Latino population rose from 4.6 percent to 6.5 percent, and the black population rose increased from .7 percent to .9 percent. In Massachusetts, the Latino population rose from 3.9 percent to 4.9 percent, while the black population increased from 4.5 percent to 6.6 percent (U.S. Census 1998). Even though the relative Latino and black populations represent only a small percentage of minority populations, the increase over the last decade may have been sufficient enough to recently enact laws restricting the voting rights for incarcerated felons.

The practice of racial redistricting has also been found to support a race-based explanation for disenfranchisement policies. Theoretically, racial redistricting is designed to ensure only the voters in the same neighborhood, city, or county have control over the person who represents their local needs and concerns. However, it is believed that current racial redistricting policies has decreased African American satisfaction within politics, but has overall increased African American congressional representation (Swain 1993). Racial redistricting wastes black votes by concentrating a surplus of black votes in some districts, while diluting their votes in districts that are concentrated with predominately white voters (Ingram 2000).

According to Lani Guinier (1994), there is little benefit of single seat black districts regarding mobilizing black interests, because typically representatives from these districts have little or no influence in legislatures. Without political influence, these representatives usually end up compromising, or selling out to special interests. Inevitably, these representatives are virtually guaranteed reelection and voter mobilization in support of them ceases and elections become routine (Guinier 1994). Based on the fact that black representatives from majority-minority districts don't have to compete for reelection against representatives from white districts explains why the black representatives are virtually powerless to influence racial polarization and provide political reform for their constituents. According to Guinier, the "deliberative gerrymandering" only reinforces racial segregation and stereotyping and does nothing to advance the black communities political agenda.

According to Guinier (1994), the only true way to obtain equal political satisfaction would require representatives from the white districts to negotiate in good faith with their minority counterparts. The only way to achieve this according to Guinier would be to force white representatives to run for reelection in multi-seat districts with a substantial minority population. Under these circumstances, neither black nor white candidates would be able to take the minority communities support for granted. Therefore, members of these communities would have an opportunity to become politically mobilized and politically educated (Guinier 1994).

In addition, African American State Congressional Representatives have been the biggest advocates in changing voting rights for convicted felons. From 1998-2001, five of

the six bills overturning felon disenfranchisement policies were introduced and written by a black representative (Preuhs 2001). Each of these legislative initiatives failed in the House. In Texas in 1997, a bill was authored and proposed by Rep. Harold Dutton Jr., a black Democrat from Houston, which called for the removal of a two-year waiting period prior to reinstatement of voting rights for convicted felons. These examples demonstrate that legislatures see a problem and are trying to address the need for change.

VOTING RIGHTS PROTECT GREATEST GIFT

The second rationale for voter disenfranchisement policies is the idea that voting rights should be restricted to only those individuals that are law-abiding citizens (Marini 2000). This argument is primarily a republican standard and judging by the policies on disenfranchisement laws, appears to be a successful explanation.

The idea that voting should be for the law-abiding citizen, may have been developed from the deterrence theory ideals and current disenfranchisement policies may be the result from this theory. However, contradicting this theory is that evidence supports that prisons are filled with younger aged inmates who usually don't vote. This demonstrates that the voter disenfranchisement laws don't apply to them as a deterrent effect (Crutchfield 2007). Even worse, the denial to vote may be viewed by the convicted felon as unfair or even unjust (Manza and Uggen 2006).

There also is evidence supporting that the reintegration process after release is a vitally important step in determining success (Zhang, Roberts, and Callanan 2006) and voter disenfranchisement policies significantly prevent newly released offenders in the

community from becoming fully integrated and may result in faster recidivism (Dhami 2005; Uggen, Manza, and Thompson 2006).

The recommendations spelled out in this paper, if put into action, could significantly change voter turnout across the United States. From the perspective of this paper, voting is viewed as a right, not a privilege.

ARGUMENTS SUPPORTING DISENFRANCHISEMENT

Despite the research contradicting voter disenfranchisement, there are several arguments supporting voter disenfranchisement. The following arguments presented support voter disenfranchisement, but none of the arguments surpass the fundamental right to vote.

The first argument supporting voter disenfranchisement looks at the fourteenth amendment and the ambiguously used term "rebellion" contained within the amendment. The basis for the argument has roots from a long-standing traditional democratic view that individuals labeled as "rebels" or "outlaws" can't participate in the electoral process, because they would not be involved in the process (Keinig and Murtagh, 2005). Individuals that fall under these two categories demonstrate contempt for the state; however, the common criminal does as well. Both groups show little regard for civil rules and laws and should both be punished the same with regard to voter disenfranchisement.

A stance of this traditional democratic viewpoint is that there is nothing that would stretch disenfranchisement beyond imprisonment or enforced supervision. The basic idea is that if a criminal is deemed fit to be placed into society, then there should be no reason why they should not regain their rights of civic and community participation (Keinig and Murtagh, 2005). However, there also is a contradicting viewpoint that even though an individual may be released into the community from prison, there is little evidence that they would be fit for social participation such as voting.

There is no evidence that I could find that could conclusively support or negate if ex-felons can be trusted to vote. Therefore, the only crime that would be practical for

justification for voter disenfranchisement would be electoral fraud; however the punishment for this crime is only a misdemeanor that disenfranchises individuals from voting (Keinig and Murtagh, 2005).

A response to this statement is that denial of voting rights is not like a social ban from political life within the community. Reintegrated and some incarcerated felons can participate in community and political affairs in several ways such as letter writing, organizing, and protesting. However, this argument overlooks the practical and symbolic significance of voting rights. Practically, one's protests and other political acts are enhanced by an individual's status as a voter. Also, symbolically, voting rights have meaning even if they are not exercised, just as rights to freedom of association, speech, and religion are important even if they are not exercised (Keinig and Murtagh, 2005).

The second argument supporting voter disenfranchisement is the idea of electoral purity. This idea of electoral purity comes from the Alabama Supreme Court in 1884 in which this court expressed their concern for maintaining the "purity of the ballot box." This decision has become a touchstone for several arguments in support of voter disenfranchisement (Keinig and Murtagh, 2005).

The Alabama Supreme Court made several important statements from this case such as "the manifest purpose is to preserve the purity of the ballot box, which is the only sure foundation of republican liberty, and which needs protection against the invasion of corruption, just as much as that of ignorance, incapacity or tyranny" (Keinig and Murtagh, 2005).

They also state that "the presumption is, that one rendered infamous by conviction of felony, or other base offense indicative of great moral turpitude, is unfit for the privilege of suffrage, or to hold office, upon terms of equality with freeman who are clothed by the state with the toga of political citizenship."

They later state that "it is proper, therefore, that this class should be denied a right, the exercise of which might sometimes hazard the welfare of communities, if not that of the state itself, at least in close political contents" (Keinig and Murtagh, 2005).

Based on the statements from the Alabama Supreme Court, three broad arguments present themselves. The first argument looks at the moral competence of felons to be voters. The second argument suggests that the participation of felons or ex-felons would undermine the voting process. The final argument focuses on the socially harmful consequences of allowing felons or ex-felons to vote.

The first argument, moral competence of felon voters, refers to the democratic principle of "one person, one vote," which presumes an equality of voting persons. The presumption is that each person is entitled to cast a vote, and that each vote should count for the same (Keinig and Murtagh, 2005). The principle of one person, one vote is questioned during Presidential elections because of the Electoral College system. However, during local, county and state elections this principle still applies.

As this paper has shown, discrimination among voters based on race, gender, economic, or educational status took many years to change, and the idea of "one person one vote" isn't something that has occurred recently. Since, the Ramirez case (1974), there

has been reluctance among the courts to enfranchise criminals, primarily because they are deemed unworthy or incompetent (Keinig and Murtagh, 2005).

As far as competence of felons to vote, there is nothing that would prove that convicted felons are not morally competent to make sound political judgments. Unless one looks at a specific crime in question, there does not appear to be a connection between moral competence of felons and voting. The idea of worthiness to vote is something that is probably not a function of a felon's status. There is no reason to believe that felons cannot use their opportunity to vote as responsibly and competently as others in the community. It is possible that some felony convictions might make it inappropriate to vote, such as treason, rebellion, terrorism, but this would be dependent on a specific type of felony crime and not a felonious act per se (Keinig and Murtagh, 2005).

If felons were able to vote, it would provide a specific and important kind of vote. Felons would be in a unique position if they were allowed to vote because they have firsthand knowledge of one of society's most important social institutions, which is the criminal justice system. Their experiences in prison provide them with valuable knowledge of one of the government's most hidden operations. This could prove important, because even though it is unlikely that felons and ex-felons will vote if they were allowed, they may make politicians more careful about the ways in which they exploit "tough-on-crime" policies (Keinig and Murtagh, 2005).

A second argument for the moral competence refers to the act of disenfranchisement representing an "us versus them" mentality. This argument is very symbolic and is rooted in the social need to define the boundaries of the community by

stigmatizing some members of society as outsiders. From this perspective, their community involvement would act as a disease and their involvement would eventually have significant influence within the community and cause great panic (Kleinig and Murtagh, 2005).

The second argument for disenfranchising felons from voting based from an election purity argument is democratic legitimacy, which refers to the idea that allowing felons to vote would undermine the voting process. From this perspective, criminals may be deemed to be unable to vote because they have acted in a manner that is not conducive to the common good, and it is a duty of the legislation to protect the public from misrepresentation (Kleinig and Murtagh, 2005). This ultimately leads to voter disenfranchisement based from this argument. The point is that voters do not need to possess a particular level of competence or commitment to vote, rather that their vote should represent the will of the people who can be assumed to be committed to appointing a candidate best representing them. The bottom line is that the principles of authority and legitimacy are taken for granted if felons are allowed to vote, and felons, because of their past actions, have demonstrated that they do not follow those principles. This is a problem because by allowing those to vote would bring into question the moral authority of the election process and ultimately the outcome.

If felons were allowed to vote, from the perspective of some people, it may taint the results of the outcome of the winner. Even though, collectively, felony voters do not represent significant numbers to decisively change the outcome. Felons unwilling to abide by legislative rules and regulations, which the majority of other citizens abide by, could

lead to political distrust, which is the backbone of the election process (Kleinig and Murtagh, 2005).

Therefore, the outcome of the election process is not nearly as important as the procedural process. If the process becomes in question, then the outcome of the election will become moot and faith in election procedure will become in question. Nevertheless, there is no strong connection between the fact that a person has violated a felony statute and the conclusion that the person in question is not committed to the political principles of voting for the best representative for their country (Kleinig and Murtagh, 2005).

The legitimacy argument, however, can be interpreted from a different point of view. A federal court suggested that felons "like insane persons, have raised questions about their ability to vote responsibly (Shepherd v. Trevino, 1978)." It is true that it is presumed that the insane can not responsibly vote, which is why they were not legitimately punished for their actions and were not sent to prison. However, felons are deemed to be responsible for their actions, and punishment for them is usually considered to be legitimate. Therefore, arguing that felons and the insane are comparable when considering legitimacy is unfair and unacceptable. Ultimately, the decisions of felons demonstrate that they have been irresponsible and this should not permit voter disenfranchisement (Kleinig and Murtagh, 2005).

The third perspective of the legitimacy argument is protecting the purity of the outcome. This has been mentioned earlier, but more details are important to clarify the argument. Felon's participation, as trivial as casting a vote, will ultimately lead to a completely corrupt political process. A perfect metaphor to understand this perspective is

that felons are like weeds in a garden, and they will eventually take over and spoil the fruits.

However, it is not clear why the voting of ex-felons should be corruptive from this argument. Even if they are deemed to be corruptive, then why are ex-felons thought to be anymore corruptive than the many number of special interests that influence voting outcomes (Kleinig and Murtagh, 2005). If the metaphor of felons acting as weeds in a garden is to be taken literally, then should felons be allowed out of prison at all?

A second argument related to protecting the purity of the ballot box was vaguely mentioned within a previous argument. Felons and ex-felons, as a whole body of individuals, do not comprise a deciding number of capable votes to change an electoral outcome. However, within certain communities, felons and ex-felons comprise a significant percentage of the population; their voting could determine the outcome of an election, which would be harmful from the viewpoint of free United States citizens (Kleinig and Murtagh, 2005).

This argument was emphasized by Roger Clegg in his remarks to the Subcommittee on the Constitution. Clegg prepared remarks on the Civic Participation and Rehabilitation Act of 1999, and his remarks stated, "the high percentage of criminals...and...disenfranchised people in some communities" constitutes "an argument against re-enfranchisement, because there...exists a voting bloc that could create real problems by skewing election results" (Clegg, 2001). He later states that had ex-felons been allowed to vote in Florida in the 2000 election, the outcome would most certainly have been different (Clegg, 2001).

The major reason for this argument of allowing ex-felons and felons to vote is the fear that they will vote for a candidate whose interests would be most fitting to the felon's interests of non-conforming behavior and beliefs. It is extremely unlikely that this would be a motivating factor for voting for a candidate for an ex-felon. A question then is raised, if felons and ex-felons were allowed to vote and did so in a manner just described, it is unlikely that their votes alone would be the deciding factor in determining the outcome.

EX-FELON VOTER TURNOUT RATES

According to Uggen and Manza (Manza and Uggen 2004; Uggen and Manza 2002), the fifteen even-year elections between 1972 and 2000, national voter turnout rates for previously disenfranchised felons ranged from 20.5 percent in 1974 to 39 percent in 1992. The average voter turnout from 1974-1992 was 29.7 percent. For Presidential elections, the averages were about 35 percent and 24 percent for midterm elections (Uggen and Manza 2002).

Drucker and Barreras (2005) surveyed participants in the criminal justice system, in New York, Connecticut, and Ohio regarding voter participation issues. The results of their survey indicated that 39.7 percent indicated they had voted at some point and that 53.4 percent reported they were planning to vote in the 2004 election (Drucker and Barreras 2005).

Another study conducted by Michael Haselswerdt (2009), looked at recently released ex-felons in the state of New York. Haselswerdt compared 660 recently released ex-felons from Erie County, NY with data from the Erie county Board of Elections to determine whether they registered and voted for either the 2004 or 2005 elections. Results

from the study indicated that only about five percent of this population voted in either 2004 or 2005.

Prior to this study, it was estimated that felon and ex-felon voter turnout rate would have been around twenty five percent (Uggen and Manza 2002). The study by Haselswerdt raises questions about the results from Uggen and Manza's statistical estimates and this study suggests that felons and ex-felons have little impact on election results (Haselswerdt 2009).

Most of the arguments presented have been focused on felons or ex-felons disenfranchisement. However, there are some individuals that feel all people of voting age should be allowed to vote. Also, even within this group of believers, there are some that feel there are certain plausible reasons for disenfranchisement. First, some agree it is acceptable to deny voting rights to individuals that are found guilty of certain electoral offenses (Kleinig and Murtagh 2005). Denying the right to vote for someone that has misused their electoral trust does not seem to be unjustifiable and most would agree it is acceptable. Second, those individuals that are on death row or sentenced to life in prison should also be denied the right to vote. Even though these individuals are of electoral age, their actions have disqualified them permanently from voting. These two situations are important because it is not believed that all prisoners of age regardless of their actions should be allowed to vote (Kleinig and Murtagh).

By nature, while in prison certain freedoms are lost such as the freedom to come and go as one pleases and the freedom of association, visitation and conjugal rights, and

the right to worship in the way one chooses. These are just a view of the rights and privileges that inmates forfeit as a result of their conviction.

Political alienation is another way in which felons and ex-felons refrain from voting. Political alienation "refers to a set of attitudes or opinions that reflect a negative view of the political system (Southwell 2008)." According to Cavanagh (1981), eligible voters that become dissatisfied with their political election options will become nonvoters and refrain from voting.

This is important because prisoners have not been allowed to vote while they are in prison and may feel somewhat alienated from the political spectrum. Ultimately, this may lead to a decreased desire to want to get involved with political thinking. Therefore, the newly released prisoner may have no desire to vote.

VOTER EDUCATION LEVELS

Voter education levels have been shown to have an effect on voter turnout. The higher the level of education of an individual, the more likely they are to actively be involved in political activity (Huckfeldt and Sprague 1987). Recently, this theory has become more defined by comparing absolute education and relative education. Absolute education refers to the actual education level obtained. Relative education is "an individual's percentile rank within his birth-cohort (Tenn 2005)." Tenn conducted a study on voter turnout rates based on relative versus absolute education and found that relative education is more significant in determining voter turnout rates than absolute education levels. This proves to be important because it is likely that felons and ex-felons possess relatively lower education levels compared to their cohort. This would result in lowered

felon and ex-felon voter turnout, reinforcing the policy recommendations for this paper that this group would have little effect on election results.

JUSTIFICATIONS FOR RESTORATIONS OF VOTING RIGHTS

There are three significant arguments for permitting prisoners to vote according to Kleinig and Murtagh (2005). First, the importance of voting rights refers to the view that voting rights are fundamental to democratic citizenship, and there should be no real reason to revoke a person's right to vote unless the individual's citizenship was also being revoked or suspended.

Voting rights for prisoners would be important because prisons are social institutions. There are millions of Americans currently incarcerated or under court supervision. Currently, voters "who have a more direct stake in prison conditions, prison officers, often have interests that are opposed to those of prisoners," so if their interests are considered then prisoner's interests should be considered (Kleinig and Murtagh 2005). The bottom line is those who are affected by decisions should have their interests taken into consideration. It is particularly disturbing that "federal funds are allocated according to residential counts and prisoners are considered as residents for allocation purposes (Kleinig and Murtagh 2005)."

The second argument for permitting prisoners to vote is the rehabilitative argument. Since roughly ninety percent of all prisoners will reenter the community and have civic obligations, allowing prisoners to vote will only help prepare them for reentry and help them develop some civic responsibility and involvement (Kleinig and Murtagh 2005). Some advocates of prisoner voting rights argue that the deprivation of voting rights for

prisoners leads to the alienation of prisoners from the greater community, which makes reentry much harder.

However, advocates of prisoner disenfranchisement argue that prisoners are not alienated from political involvement because they can write letters, make phone calls, and perform other political involvement methods. It is likely that some political involvement, however, will be less effective or if voting rights are denied there will be limited motivation to participate.

In the current reentry program, felons face multiple difficulties with reentry and if they fail, it is detrimental to the community (Kleinig and Murtagh 2005). It is also likely that a large number of incarcerated felons were not active voters before they were convicted. If they were allowed to vote while in prison, it could be seen as an opportunity for prisoners to develop civic commitment.

For those that argue that prisoners would not be informed on the election, they have access to televisions and newspapers just as the rest of society, which is probably the same method most Americans use to obtain election knowledge. If prisoners were granted the right to vote, it would be likely that you may see a politician visiting a prison while on their campaign.

The last argument for allowing prisoners to vote is the disparate impact argument. This argument refers to the idea that in almost every society a group contained within that society has disproportionally been denied rights. An example includes African Americans in the United States. Disenfranchisement practices continue to undermine these minority

groups and these practices are unnecessary unless there is some hidden social reason for not allowing them to vote (Kleinig and Murtagh 2005).

These three arguments for prisoner right to vote conflict with the recommendations of this paper because I do not believe prisoners should be allowed to vote. However, the same arguments can be used for the recommendations of the policy presented in this paper.

The first argument, voting is a fundamental right to democratic citizenship applies because even though prisoners are still considered citizens, they have limited rights and some restrictions. In this case the right to vote is a restriction that is an acceptable consequence for a prison or jail sentence. The second argument presented by Kleinig and Murtagh (2005) is voting provides a way of reentry back into the community. From the perspective of this paper, prison is not considered part of reentry nor is it part of pre-reentry. The period during probation and/or parole is viewed as part of the reentry phase for an individual and therefore allows for their voting rights to be restored. The third reason for disparate impact applies to prison inmates and can also apply to those individuals that are placed back into the community.

Another argument that Kleinig and Murtagh did not mention is that allowing for only incarcerated individual's voting rights to be restricted, creates uniformity among all fifty states and significantly reduces confusion. Lastly, and probably most important is that the recommendations for the new policy on voter disenfranchisement is a cost saving technique for each state. This new policy would eliminate any tracking devices needed for verification of an individual's criminal status. As long as the person is an eligible and registered voter, (except North Dakota) they would be allowed to vote in the election.

RESEARCH ON 2000 PRESIDENTIAL ELECTION

The 2000 Presidential election will most likely be remembered for years to come, not because President Bush was declared the winner, but because of the troubles particularly in Florida's ballot procedures. During the period of uncertainty, Florida had many allegations of voting day irregularities such as outdated machines, improper counts and tabulations, inadequate access to individuals with disabilities, lack of translators for immigrants and inability of eligible individuals to exercise their right to vote (Hines, 2002).

With Florida, during this election, the state saw a dramatic increase in the number of African American registrants for both the Democratic and Republican parties. However, the increase of black Democrats outnumbered the black Republicans ten-to-one, which was thought to be because of President Bush's conservative policies during his campaign which included eliminating Florida's Affirmative Action laws (Hines, 2002). The state of Florida has come under much scrutiny because it was felt that many of votes, particularly from these two groups were mishandled or some other legal problem prevented their vote's form being cast. Stemming from this election, civil rights groups, African American leaders, and Democrats have accused Florida of providing confusing ballots, error-prone machines, lack of trained poll workers, and accessibility to poll sites for the disabled and improper purges (Hines, 2002).

There have been many studies conducted regarding the relationship between race and rejected votes for Florida during the 2000 election. Particularly, a study conducted by the United States Commission on Civil Rights (2001) concluded that there was a positive

relationship between race and voter disenfranchisement. Results from this study indicated that the counties in Florida with large minority populations were more likely to experience higher ballot rejection rates than the more affluent counties with large white populations. Nine of the ten counties with the highest percentages of African American voters had rejection rates above the Florida average (Hines, 2002). However, for the counties with the highest white percentage of voters, only two of the ten counties had rejection rates above the state average. Also, roughly seventy percent of African American voters lived in the counties where the error-prone punch cards were utilized.

Similar studies were conducted by nationally known periodicals such as the *Miami-Herald, New York Times,* and *Washington Post* and all indicated a strong relationship between race and rejected ballots in Florida. The *New York Times* study indicated that the majority of African Americans in Florida cast their ballots on the error-prone punch card machines, which ultimately led to a higher rate of ballot rejection. Black precincts in Miami-Date County experienced rejection rates almost twice that of Hispanic precincts and four times the rate for white precincts (Hines, 2002).

An analysis conducted by the *Washington Post* on voided votes indicated that ballots cast by African Americans were voided at a much greater rate than those cast by white voters. This analysis indicated that precincts with higher percentages of minority populations were more likely to have outdated and faulty voting machines (Mintz and Keating 2000).

Similar results were found in an analysis by the *Miami Herald*, which concluded that the vast majority of Presidential ballots in African American precincts were voided or

found to be invalid at a much higher rate than white precincts. Statistically, predominately black precincts had rejection rates equal to one in every ten, while white precincts had rejection rates equal to one in every thirty-eight. Also, eighty-two percent of the state's 463 majority-black precincts experienced rejection rates higher than the state average, while only forty-one percent of the white precincts experienced rejection rates higher than the state average. Also, it was found that a higher percentage of black voters lived in the twenty-four counties that used punch-card machines (Lane, 2000).

Governor Bush's Select Task Force on Election Procedures, Standards, and Technology (2001), which studied the 2000 Presidential election in Florida, found similar conclusions. The report from this Task Force indicated that error rates for different types of voting systems were directly related to the type of machine utilized (Hines, 2002).

Another major problem that surfaced out of the 2000 Presidential election from Florida was that thousands of voters were purged from the November 7th election. According to a 1998 court decision, Florida is legally required to recognize the rights of ex-felons based on the full faith and credit clause stemming from weapons permits from other states (March, 2001).

During this election, Florida residents convicted of felonies were not allowed to cast their vote even if they were allowed to vote in other states. In order to vote in Florida, these ex-felons were required to prove in writing that their rights had been restored. In the months prior to the Presidential election, these ex-felons were given as little as five months to obtain necessary documentation proving their restorative status. This policy applied to 2,834 individuals during the 2000 Presidential election (March, 2001).

Civil rights groups stated this was a direct violation of the full faith and credit clause of the Constitution which requires any legal rulings in one state to be recognized by another. Civil rights groups also noted that purging laws impacted African Americans disproportionally when compared to white residents from Florida. The United States Commission on Civil Rights (2001) also noted similar findings in that African Americans were placed on purging lists more frequently than Hispanic or White voters.

Another issue that evolved from the 2000 Presidential election in Florida was the states inadequate accommodation for the physically disabled and those individuals needing language assistance. The Voter Accessibility for the Elderly and Handicapped Act of 1984 required that polling sites provide accessibility to disabled voters. The Act stated that states were responsible for ensuring that polling stations for Federal elections are accessible to handicapped and elderly voters. Section 2A of the United States code states that when a polling site is not accessible for disabled or elderly voters, the polling site must be relocated or made temporarily available to voters in need. However, during this election, many disabled and elderly Florida voters were unable to vote (Hill and Seeley Jr., 2000).

According to testimonies obtained by the United States Commission on Civil Rights (2001) and other civil rights organizations, voters in wheelchairs either turned back or faced humiliation by requesting help to be carried to the polling place. There also were reports that visually impaired voters claimed that they were not provided with sufficient tools to assist them in reading the ballots. Some of the visually impaired voters requested help from the poll helpers to cast their ballot, resulting in loss of a secret ballot.

The inability to exercise the right to vote for English language voters was also a concern during this election at some polling stations. The 1975 amendments to the VRA addresses the multilingual requirements for voting and states that if more than five percent of the voting age population of a state are individuals of a single language minority and have limited proficiency in the English language, the state is required to provide language assistance. In 2000, some Hispanic and Haitian voters were not provided ballots in their native languages (Pierre and Slevin, 2001). A report from the Commission on Civil Rights indicated that in some parts of Florida, voters needing language assistance received neither bilingual assistance nor bilingual ballots as required by the VRA.

A study conducted in 2001 by the *Washington Post* and other media organizations affirmed many of the issues that resulted from the 2000 Presidential election. One particular study focused on the 175,010 Florida ballots that were not counted and found that ballots of voters residing from predominately black neighborhoods were uncounted far more often than voters from white neighborhoods. In large black neighborhoods, thirteen out of every one thousand ballots were uncounted for, compared to six in every one thousand ballots from predominately white neighborhoods (Keating and Mintz, 2001).

African Americans in general during the 2000 Presidential election in Florida were at least ten times more likely than other voters to have their ballots rejected. Blacks were coincidently assigned to polling sites that lacked the necessary resources to confirm voter eligibility: used defective and complicated ballots that caused over votes and under votes; used defective election equipment in poor precincts; failed to provide bilingual assistance

to Hispanic and Haitian voters; failed to ensure access for the disabled; and erroneously purged ex-felons off the voters lists (United States Commission on Civil Rights, 2001).

In 2001, Florida legislation passed election reform which established funds for a statewide and uniform voting system, voter education programs, a database of registered voters and a requirement that the Division of Elections develop uniform recount procedures (*Tampa Tribune*, 2001). However, civil rights civil liberties organizations have criticized this legislation because of the continued purging of convicted felons from voter polls and voter responsibility signs at polling places which place undue burden on the voters who might not be able to read.

CONCLUSION

The policy of disenfranchising voters has been around for many years, but this policy has been scrutinized since the 2000 presidential election. If the recommendations from this paper would have been implemented in the 2000 presidential election, there is a chance that Florida's electoral votes would have been won by Al Gore instead of former President Bush. My position is that voting should be a right, not a privilege, to be experienced by all eligible voters not incarcerated.

The research found indicates that the policy of voter disenfranchisement affects multiple races and ethnicities, as well as both males and females. Overall, African American males experience the greatest affect from voter disenfranchisement. Racial redistricting has also created problems for minorities and the research indicates that the practice of redistricting does nothing to advance black communities' political participation or representation (Guinier 1994).

Allowing eligible citizens to vote that are not incarcerated would create a uniform system creating no need to have programs designed to guard against in-eligible persons voting. This policy would save money and allow states to use the extra funds not needed elsewhere.

Having felons vote in their respective communities does not appear to have any negative effects. For future research, it would be useful to look into community areas where ex-felons are allowed to vote and see if there are any noticeable changes in the communities such as increased criminal activity. The research indicated from this paper concluded that if the voting rights were restored to ex-felons, it is unlikely that their votes

alone would change any election outcome. Our congressmen have a duty to make the changes for ex-felons, not because they may believe it to be right, but because it will have no effect on current election outcomes and it is constitutionally necessary.

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