

Voting Rights & Felon Disenfranchisement: A New Path Forward

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Executive Summary

The current felon disenfranchisement policies in Minnesota undermine the essential voting rights necessary for democracy to thrive. Minnesota currently outranks many founding NATO countries in incarceration rates per 100,000 in population². If an individual in Minnesota is convicted of a felony, their right to vote is revoked until they complete their sentence, probation, or parole. This is especially problematic because Minnesota's probationary periods extend into decades long punitive measures⁷. Governor Mark Dayton's Task Force suggestions of allowing felons to vote after incarceration is a step in the right direction, but does not go far enough to alleviate the problem of felon disenfranchisement. In order to correct this unjust policy of felon disenfranchisement, we recommend a new path forward: (1) A total reform of felon disenfranchisement policies in Minnesota by automatically restoring the voting rights to felons currently incarcerated, and those on probation and parole¹³, (2) Criminal defendants are to be informed of their right to vote upon their immediate restoration and that they are eligible to register to vote¹³, and (3) The Department of Corrections and Probation and Parole authorities responsible for assisting with voluntary voter registration, ensuring all citizens are subject to the same application procedures¹³.

Understanding the Problem

Historical, National, & State Context

During each election cycle Americans are reminded of the importance of voting, but the right to vote has not always been available to everyone throughout America's history. Although voting rights has been expanded to include African-Americans and women, these rights have been under constant attack since their political validation¹. This is especially true for the African-American community. Nationally, the

American criminal justice system confines 2.3 million people³, see figure 1. The demographic of these citizens is disproportionately African-American and other minority ethnic and racial groups. African Americans are 13.4% of the United States' population and are 38% of the prison demographic⁴.

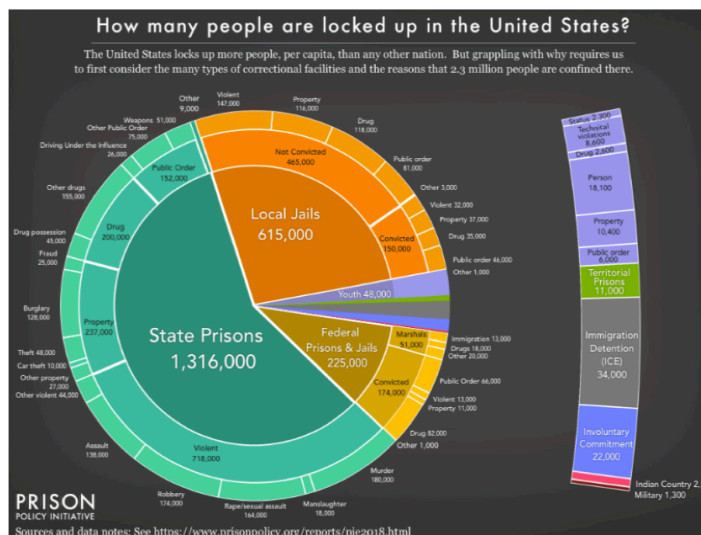


Figure 1. Criminal Justice System Incarcerations

The policy recommendations are not endorsed by Minnesota State University, Mankato

Minnesota's Felon Population

Minnesota currently outranks many founding NATO countries in incarceration rates per 100,000 in population². The national demographic trend is also discovered in the Minnesota prison population. African Americans are 5% of Minnesota's population as of 2018⁵, and yet, 31% are incarcerated, see figure 2.

Under current Minnesota law, ineligibility to vote includes:

- Being convicted of treason or any felony whose civil rights have not been restored.
- Being under a guardianship in which the court order revokes the ward's right to vote.
- Found by a court of law to be legally incompetent⁶.

If an individual is convicted of a felony, their right to vote is revoked until they complete their sentence, probation, or parole. This policy is ineffective because Minnesota has one of the lowest incarceration rates in the country, preferring to use probation and community service to punish lawbreakers rather than prison time⁷. As a result, Minnesota ranks fourth highest when it comes to probation length, with excessive probation lasting up to thirty to forty years⁷.

Constitutional Dilemma

In addition to the historical, political, and empirical context of felon disenfranchisement disparities among African-Americans and other racial, ethnic minorities, there is a Constitutional dilemma at both the federal and state level. There are four key arguments against the constitutionality of felon disenfranchisement at the federal level, which in turn are applicable for the state of Minnesota.

- Drug offenses were not classified as common law offenses when the Fourteenth Amendment was drafted⁸.
- Felon disenfranchisement violates the prohibition against cruel and unusual punishment outlined in the Eighth Amendment⁹.
- Section 2 of the Fourteenth Amendment establishes a deep incongruity with the right to vote guaranteed by the Fifteenth Amendment by allowing a loophole for the establishment of felon disenfranchisement laws¹⁰.
- The Voting Rights Act of 1965 was intended to end racial discrimination in the arena of political participation by strengthening the African-American community's ability to vote unencumbered during an election¹⁰.

As the empirical data indicates, these rights are being denied to the very communities these protections were established to protect.

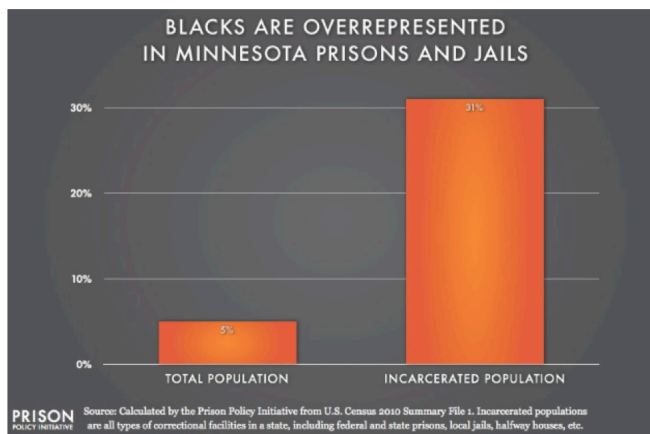


Figure 2. Minnesota Imprisoned African-American Population





Minnesota State Constitution

The same principles outlining the constitutional dilemma of felon disenfranchisement and the violation of voting rights at the federal level exist in the state of Minnesota. According to the Minnesota State Bill of Rights, all political rights are inherent to the human person, including:

- The right to reform and modify government.
- No citizen of Minnesota can be disfranchised/deprived of their political rights.
- Citizens of Minnesota shall not be punished with excessive fines or cruel and unusual punishment⁶.

These three principles established in the Minnesota State Constitution are under direct attack due to the disenfranchisement policies prohibiting felons from participating in the political process as full citizens of this state.

Policy Solutions

A Step in the Right Direction

In 2011 the Task Force on Election Integrity was established by then Governor Mark Dayton. This task force studied and recommended to the legislature proposals to modernize the State's elections, while protecting citizens' fundamental right to vote. The second report recommended the "Incarceration/Non-Incarcerated Model" which included the following:

- Provides that otherwise eligible voters are ineligible to vote while incarcerated.
- Ensures individuals become re-eligible to vote once they are released from prison.
- Educate felons as to their restored voting rights under current Minnesota law.
- Alleviate undue burdens on County Attorneys to investigate voter registration and eligibility¹¹.

An advantage to the Incarceration/Non-incarceration Model is that it is very clear; if a felon is incarcerated at the time of election they do not get to vote. The Task Force found there was general satisfaction with systems providing clear guidance to election judges. The notification of felons as to their voting rights would allow them to be better informed regarding the restoration of their voting rights under current Minnesota law. Minnesota's Task Force recommendations are a step in the right direction compared to current policy, but it does not go far enough to end felon disenfranchisement.

A New Path Forward

Civil rights were developed to promote equality, fairness under the law within the civil society, and to increase one's social and individual capital within a society. Civil rights include the right to a fair trial, religious freedom, public education, use of public services, parental rights, and especially the right to vote¹². Minnesota's current policy frustrates the democratic process by further disenfranchising individuals by stripping them of their right to vote along with the additional civil rights that are taken away once incarcerated. Moreover, the Task Force recommendations do not go far enough to end felon disenfranchisement. Due to these shortcomings in current policy and Task Force recommendations, we advocate for the following measures to establish justice, fairness, and equality under the law.

Policy Recommendations

- Automatically restore voting rights to felons currently incarcerated, and to people on probation and parole¹³.
- Ensure criminal defendants are informed of their right to vote upon immediate restoration, and that they are eligible to register to vote¹³.
- Make the Department of Corrections and Probation and Parole authorities responsible for assisting with voluntary voter registration. Ensure that all citizens are subject to the same application procedures¹³.

To access the brief online go to: <http://sbs.mnsu.edu/socialwork/policybriefs.html>

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