

THE DISENFRANCHISEMENT OF THE RE-ENFRANCHISED

**How Confusion Over Felon Voter Eligibility in Ohio Keeps
Qualified Ex-Offender Voters From the Polls**

**Prison Reform Advocacy Center
Cincinnati, Ohio
August 2004**

About the Prison Reform Advocacy Center

The **Prison Reform Advocacy Center (PRAC)** is a Cincinnati-based nonprofit that works to eliminate unlawful conditions of confinement for Ohio prisoners and to empower prisoners and ex-offenders to become contributing members of society.

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Acknowledgements

The authors would like to thank all those whose work made this project possible, including the following PRAC staff members and volunteers: Andrew Amend, Bryan Boyle, Janetta Brewer, Sheila Donaldson, Jennifer Hatton, Deborah Ranker, Blake Skogland and Andrew Lehman. Additionally, we would like to thank PRAC Board President Alphonse Gerhardstein, Scott Greenwood, and Molly Wieser for their support.

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I. SUMMARY OF KEY FINDINGS AND RECOMMENDATIONS

A. Introduction

This study finds that an Ohio ex-offender's right to vote may well depend on where he or she lives in the state. Ohio law permits former prisoners to resume voting after their release from custody, but election officials' knowledge of this law varies by region. For example, representatives from the Cuyahoga County Board of Elections consistently gave accurate information regarding ex-offenders' voting rights, and most Cleveland ex-offenders knew they could vote. But in Cincinnati, nearly half of the ex-offenders we surveyed did not know they were allowed to vote, and information on ex-offender voter registration provided by the Hamilton County Board of Elections was inaccurate and misleading. The other 86 County Boards of Elections were a mixed lot. This study documents the problem and offers practical, simple solutions that can be implemented before the October 4, 2004 registration deadline. The Prison Reform Advocacy Center (PRAC) calls on the Secretary of State, the County Boards of Elections, the Ohio Department of Rehabilitation and Correction (Prison System and Adult Parole Authority offices), the Correctional Institution Inspection Committee, and other state and county agencies to act promptly to help ex-offender citizens exercise the right to vote.

B. Significance of this Issue

Approximately 22,000 Ohio prisoners are released each year to live in communities across the state.¹ Though not eligible to vote while incarcerated, these

¹ Nancy G. LaVigne, Gillian L. Thomson, et al., "A Portrait of Prisoner Reentry in Ohio" at 37, 60 (Urban Institute, November 2003). In 2001, 95% of the 23,874 released prisoners returned to communities in Ohio.

individuals automatically become eligible to vote upon release from confinement.² In Ohio, there is no requirement that released prisoners be “off papers” (no longer under community supervision, i.e., probation, parole, or post-release control) before they can register to vote.³ Thus, the more than 34,000 ex-offenders statewide who are currently under some form of community supervision are eligible to vote.⁴

The reality is that a significant percentage of released prisoners, including 43% in Hamilton County, believe they are ineligible to vote while on community supervision. This is troubling. The right to vote is one of the most fundamental and cherished rights of a free and democratic society. Our democracy suffers when the voices of all eligible voters, including former prisoners, are not heard. Moreover, all of us benefit when ex-offenders succeed. States like Ohio, where former prisoners can vote as soon as released, should take steps to ensure that ex-offenders fully understand this important right. Why? Because civic participation is the hallmark of good citizenship. Voting not only gives us a voice in representative government, it also roots us to our communities. When former prisoners believe that they are valuable stakeholders in their communities and that they have the power to contribute in a meaningful way to civic life, they are more likely to succeed.⁵ All of us – regardless of race, income level, and political party – should encourage ex-prisoners to vote.

² Ohio Revised Code § 2961.01(A).

³ Effective July 1, 1996, parole was abolished and replaced with post-release control. Post-release control, which is mandatory for the most serious offenses, imposes supervision requirements similar to those imposed under parole. Post-release control applies to those offenders sentenced on or after July 1, 1996. Those sentenced prior to July 1, 1996, are subject to parole. For purposes of this paper, parole and post-release control may be referred to (along with probation) as “community supervision.”

⁴ Adult Parole Authority, Regional Workforce Analysis, May 2004.

Furthermore, as the 2000 presidential election taught us all, every vote matters. In 2000, the presidential election was decided in favor of then-Governor Bush by 537 votes in Florida.⁶ The vote count in several other states – including New Mexico (366 vote difference in favor of Gore) and New Hampshire (7,211 vote difference in favor of Bush) – were very close.⁷ This year’s election also promises to be very close. Moreover, Ohio has been identified as a key battleground this year, where the state’s 20 electoral votes could turn on a few thousand votes. In 2004, every vote will be important in Ohio.

PRAC undertook this study with two goals: 1) to assess the extent to which interviewed ex-prisoners who are on community supervision in Akron, Cincinnati, Cleveland, Columbus, Dayton, and Toledo understand they can vote upon release from incarceration; and 2) to recommend measures that can be taken to ensure that all felons in Ohio are aware of their voting rights.

C. Methodology

This study relied on four sources: (1) interviews with former prisoners on community supervision; (2) surveys of all 88 county boards of elections; (3) conversations with prison administrators and staff; and (4) surveys of employees in selected Adult Parole Authority offices.

⁵ See Christopher Uggen and Jeff Manza, “Voting and Subsequent Crime and Arrest: Evidence From A Community Sample” 17 (available at http://www.soc.umn.edu/~uggen/Uggen_Manza_04_CHRLR2.pdf) (“Taken as a whole, [our] analysis suggests that a relationship between voting and subsequent crime and arrest is not only plausible, but also that it receives some degree of empirical support. We find consistent differences between voters and non-voters in rates of subsequent arrest, incarceration, and self-reported criminal behavior. While the single behavioral act of casting a ballot is unlikely to be the single factor that turns felons’ lives around, it is likely that the act of voting is tapping something real, such as a desire to participate as a law-abiding stakeholder in a larger society”).

⁶ 2000 Official Presidential Results, Federal Elections Commission.

1. Interviews with Former Prisoners on Community Supervision

From May 26 to July 27, 2004, PRAC staff interviewed 140 ex-prisoners on some form of community supervision - 55 from Cincinnati, 28 from Dayton, 22 from Cleveland, 17 from Columbus, 14 from Toledo, and 4 from Akron – to determine whether they understood they could vote upon release from prison. 51.1% of Ohio prisoners will return to one of these six cities upon release.⁸ Interviews were conducted in the waiting area of the Adult Parole Authority office in each city. Each respondent was asked whether he or she was eligible to vote. At the end of each interview, each respondent was advised that he or she could vote.

2. Board of Elections Surveys

PRAC staff called all 88 county Boards of Elections (BOEs) to determine whether county elections officials were aware that felons on community supervision could vote. PRAC staff conducted three rounds of BOE surveys, the first on May 6, the second on May 21, and the third one on June 1-3, 2004. During the calls, PRAC staff spoke with representatives of each BOE, usually the employee who answered the phone. Although in a few instances our calls were referred to the BOE Director or Deputy Director, PRAC representatives did not ask to speak to these officials because the objective was to test the information provided by those employees who usually have contact with the public. During each call, the PRAC staff member posed as a felon on community supervision inquiring about his or her right to vote.

⁷ *Id.*

⁸ LaVigne & Thompson, at 62. Cleveland accounted for 18% of returnees; Columbus, 10%; Cincinnati, 9.5 %; Akron, 4.8%; Dayton 3.9%; Toledo, 3.9%.

3. Conversations with Prison Administrators and Staff

PRAC staff spoke with the Reentry Administrator for the Ohio Department of Rehabilitation and Correction (ODRC). She explained the process by which ODRC prisons are supposed to advise prisoners of their right to vote upon release, and provided PRAC with a voting rights lesson plan, which has been distributed to each prison as part of the ODRC's Release Preparation Program. To the extent implemented in each prison, the lesson plan teaches prisoners that they are eligible to vote as soon as released from confinement.

PRAC followed up by phone with each prison to determine to what extent, if any, the voting rights curriculum is being implemented at each facility. PRAC spoke to the pre-release coordinator or other employee responsible for pre-release education.

4. Surveys of Selected Adult Parole Authority Offices

PRAC staff spoke with representatives of the Adult Parole Authority (APA) offices in Akron, Cincinnati, Cleveland, Columbus, Dayton, and Toledo to determine what information those offices would provide to a felon who called to inquire about his or her voting rights. As with the calls to the BOEs, PRAC staff did not ask to speak to the director or deputy director of the office but rather spoke initially with the employee who answered the phone. APA representatives were surveyed because of their regular contact with ex-offenders.

5. Caveats

a. This is not a scientific study.

PRAC never intended to do – and has not done – a scientific polling of felons on community supervision to determine the extent to which they understand they can vote as

soon as released from incarceration. Given the rapidly approaching election and the need to inform released felons of their voting rights as soon as possible, we decided that it would be unwise to spend the time and resources to conduct a more comprehensive study, which would have included, among other things, interviewing a much larger number of ex-offenders. This study, however, does present useful research and is sufficiently reliable to encourage efforts to educate ex-offenders properly and to open the voting booth to all of them.

b. This study does not examine the extent to which some felons in Ohio believe that they have been disenfranchised permanently (as opposed to temporarily while incarcerated and while on community supervision).

Almost all of the felons we interviewed who answered “no” to the question, “are you eligible to vote?” believed that they could vote once finished with community supervision. A few respondents in the Cincinnati area believed they had been disenfranchised for life owing to their felony convictions, a result that was not surprising given the close proximity of Cincinnati to Kentucky, which disenfranchises convicted felons for life.⁹ Nevertheless, this paper does not focus on the extent to which some felons in Ohio believe they have been disenfranchised for life.

D. Summary of Key Findings and Conclusions

1. A Significant Number of Felons on Community Supervision Believe They Cannot Vote.

- a. 43% of the ex-offenders interviewed at that Cincinnati APA office believed that they were ineligible to vote. Another 13% did not know whether or not felons on community supervision could vote. 44% of the ex-offenders said they could vote on community supervision.

⁹ In Kentucky, felons are permanently ineligible to vote unless pardoned by the Governor. KY Const. § 145.

- b. 29% of the ex-offenders interviewed at the Columbus APA office said that they were ineligible to vote. 71% of the ex-offenders said they could vote on community supervision.
- c. 25% of the ex-offenders interviewed at the APA office in Akron believed they were ineligible to vote.¹⁰ 75% of the ex-offenders said they could vote on community supervision.
- d. 18% of the ex-offenders interviewed at the APA office in Dayton believed they were ineligible to vote. Another 11% did not know whether or not they could vote. 71% of the ex-offenders said they could vote on community supervision.
- e. 14% of the ex-offenders interviewed at the Toledo APA office believed they were ineligible to vote. 29% did not know whether or not they could vote on community supervision. 57% of the ex-offenders said they could vote.
- f. 9% of the ex-offenders interviewed at the APA office in Cleveland believed they were ineligible to vote and 14% did not know whether they could vote. 77% of the ex-offenders said they could vote while on community supervision.

2. Many Local Boards of Elections Did Not Consistently Respond That Felons Can Vote as Soon as Released from Prison.

- a. 20 BOEs across the state, including the Hamilton County BOE, indicated at least once that felons on probation or parole could not vote.
- b. 13 BOEs, during at least one of the survey rounds, stated that they did not know the answer to the question of whether felons could vote while on parole or probation.

3. The Hamilton County BOE Requires Felons Who Attempt to Register by Mail to Attach “Documentation Restoring Voting Rights.”

- a. Not only does this special documentation make it more difficult for felons to register, the documents the Hamilton County BOE provides to felons as examples of how to establish restoration of voting rights suggests that felons are not eligible to vote as soon as released from confinement.

¹⁰ One of the individuals who said she could vote on community supervision also erroneously believed she could vote while in prison.

4. Although “You can vote if on community supervision” signs help to educate felons about their voting rights, such signs are not sufficient to ensure that all ex-prisoners are aware of their right to vote upon release.

- a. Although 71% of ex-prisoners interviewed at the APA office in Dayton – where such a sign is prominently displayed – understood that they could vote, 29% believed that they were barred from voting.

5. It is unclear whether all released prisoners are taking part in the voter education curriculum developed by the ODRC

- a. ODRC has distributed reentry curriculum to all 32 prisons, including a voter education lesson plan, which teaches prisoners that they have the right to vote as soon as released from incarceration.
- b. Although most ODRC institutions we contacted stated that they provide voter education to prisoners and that the classes are required, several institutions candidly admitted that a lack of resources makes it difficult to ensure that every prisoner receives this important education.

E. Summary of Key Recommendations

1. Secretary of State

- a. Ensure that every local BOE understands and enforces Ohio Revised Code § 2961.01, allowing ex-prisoners to vote as soon as released from incarceration.
- b. Adopt rules allowing felons to register to vote at Adult Parole Authority offices.

2. Local Boards of Elections

- a. Ensure that every employee knows that voting rights are restored upon release from incarceration.
- b. Eliminate rules requiring felons to attach “documentation restoring voting rights” (Hamilton County BOE and other BOEs that follow this practice).

- c. Post signs conspicuously advising former prisoners, in everyday language, that voting rights are restored upon release from incarceration.

3. ODRC – Prison System

- a. Provide every released prisoner, at the time the prisoner is being released from incarceration, with written notice that his or her voting rights have been restored.
- b. Provide every released prisoner with a voter registration application.
- c. Post signs conspicuously throughout every prison advising prisoners, in everyday language, that voting rights are restored upon release from incarceration.
- d. Ensure that every prisoner has the opportunity to receive voter rights education.

4. Adult Parole Authority

- a. Require APA officers, as part of the initial supervision meeting, to verbally inform each ex-offender on community supervision of his or her right to vote.
- b. Amend the standard post-release supervision form, which those on supervision must sign, to include a provision to the effect, “I am aware of my right to vote and understand that voting is an important responsibility of all citizens.”
- c. Make voter registration applications available to ex-offenders who express interest in registering to vote.

5. Correctional Institution Inspection Committee

- a. Help implement our recommendations for the ODRC-prison system, including the posting of signs in prisons.

II. OHIO’S FELON RE-ENFRANCHISEMENT LAW

A. Ohio Revised Code § 2961.01

Ohio Revised Code (O.R.C.) § 3503.18 requires the cancellation of voter registration for voters who have been convicted of a felony. O.R.C. § 2961.01(A),

however, re-enfranchises felons who are released to the community, be it on probation, parole, or post-release control. O.R.C. § 2961.01(A) states:

A person convicted of a felony under the laws of this or any other state or the United States, unless the conviction is reversed or annulled, is incompetent to be an elector or juror or to hold an office of honor, trust, or profit. When any person convicted of a felony under any law of that type is granted parole, judicial release, or a conditional pardon or is released under a non-jail community control sanction or a post-release control sanction, the person is competent to be an elector during the period of community control, parole, post-release control, or release or until the conditions of the pardon have been performed or have transpired and is competent to be an elector thereafter following final discharge.

B. The Ohio Secretary of State's Interpretation of O.R.C. § 2961.01

According to the Ohio Secretary of State, the meaning of this statutory language is crystal clear. The following appears in the Frequently Asked Questions of the Voter Registration section of the Ohio Secretary of State's website:

- **Can I register to vote if I am a felon?**
- Yes, if you are not currently incarcerated.¹¹

C. The US Department of Justice's Interpretation of O.R.C. § 2961.01

The United States Department of Justice (DOJ) publishes a pamphlet – Restoring Your Right to Vote – for each state. The DOJ pamphlet for Ohio states:

Your right to vote is automatically restored upon final release from your sentence. In addition, under Ohio law, you may vote while on probation, parole, judicial release, or when you have been released on a conditional pardon or under a post-release control sanction. In order to vote, all you need to do is register.¹²

D. Summary

Ohio law is clear. Felons are eligible to vote, provided they are not incarcerated at the time they register to vote.

¹¹ <http://www.sos.state.oh.us/sos/voter/index.html>.

¹² United States Department of Justice, "Restoring Your Right To Vote Ohio" (December 2000).

III. FELON VOTING RIGHTS SURVEY

A. Interviews with Felons on Community Supervision.

From May 26 to July 27, 2004, PRAC staff interviewed 140 former prisoners on probation, parole, or post-release control. The interviews were conducted in Adult Parole Authority Offices in Akron, Cincinnati, Cleveland, Columbus, Dayton, and Toledo. 4 were conducted in Akron; 55 in Cincinnati; 22 in Cleveland; 17 in Columbus; 28 in Dayton; and 14 in Toledo. Each respondent was asked whether he or she was eligible to vote. During each visit, PRAC staff inspected the waiting area for a notice or sign advising individuals on some form of community supervision that they could vote.

1. Cincinnati (Hamilton County)

"I missed the last presidential election because I didn't think I could vote. I definitely would have voted had I known I was eligible."

— Cincinnati resident interviewed at Hamilton County APA office.

PRAC staff visited the Hamilton County APA office, located at 7710 Reading Road, Suite 210, Cincinnati, Ohio, on May 26, June 24 and July 6, 2004. PRAC staff interviewed 55 ex-offenders in the waiting area of the APA office, and did not observe

any "voting rights" signs.

Can Ex-Offenders Vote? What They Said In Cincinnati

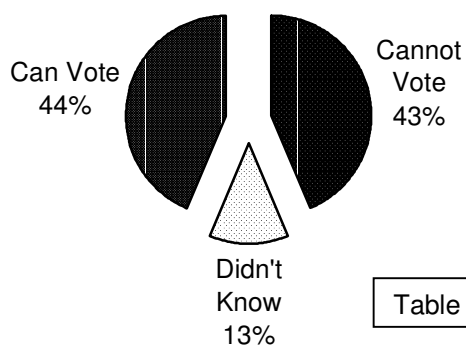


Table 1(a)

As shown in Table 1(a), 43% of the respondents believed they were ineligible to vote because of their status as felons on probation, parole, or post-release control supervision. 13% of the respondents did not know whether they were eligible to vote.

44% stated that they could vote as soon as released from prison.

One of the respondents, who believed she was barred from voting, was relieved to learn she was eligible to vote: “I missed the last presidential election because I didn’t think I could vote. I definitely would have voted had I known I was eligible. I have two brothers who have felony convictions and they also think they can’t vote.”

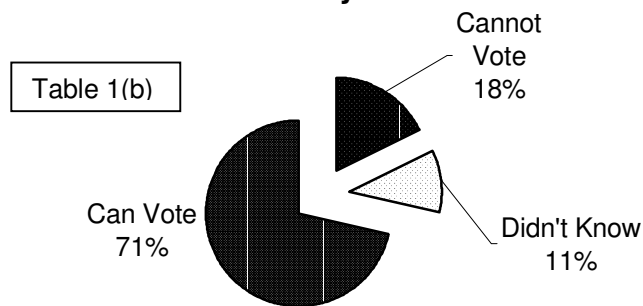
2. Dayton (Montgomery County)

“Yes, I can vote. The sign right there says so.”

— Dayton parolee pointing to a sign on the wall of the Montgomery County APA office.

PRAC staff visited the Montgomery County APA office located at 40 S. Main Street, Dayton, Ohio, on June 24 and June 30, 2004. PRAC staff interviewed 28 ex-offenders in the waiting area of the APA office, and observed a “voting rights” sign prominently displayed by the counter where supervisees sign in.

Can Ex-Offenders Vote? What They Said In Dayton



As shown in

Table 1(b), 18% of the respondents stated that they could not vote, while another 11% answered that they did not know if they were eligible to vote. 71%

of the respondents knew that they could vote.

3. Cleveland (Cuyahoga County)

“They told me the wrong thing.”

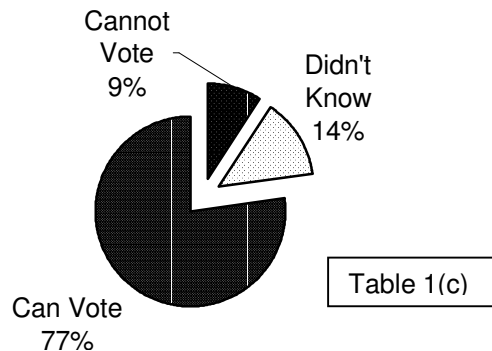
— Cleveland parolee upon learning from PRAC staff that he could vote while on parole

PRAC staff visited the Cuyahoga County APA office located at 615 Superior

Avenue Northwest, Cleveland, Ohio, on July 12, 2004. PRAC staff interviewed 22 ex-offenders in the waiting area of the APA office, and did not see a “voting rights “ sign.

As shown in Table 1(c), 9% of the respondents believed they were ineligible to

Can Ex-Offenders Vote? What They Said In Cleveland



vote because of their status as felons on probation, parole, or post-release control supervision and 14% of the respondents did not know whether they were eligible to vote. 77% stated that they could vote as soon as released from prison.

One individual who stated he could not vote was up for final release the day of the interview. He explained that he had been told he could not vote before final release.

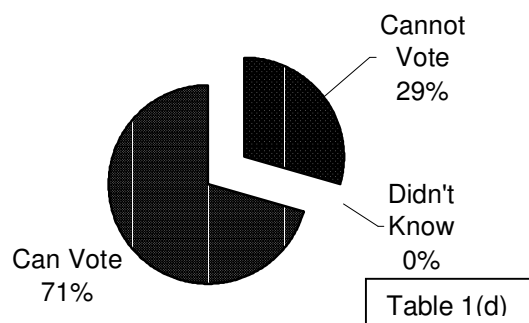
4. Columbus (Franklin County)

"They've been here registering us."

— Columbus parolee upon being asked, "How do you know that you can vote?"

PRAC staff visited the Franklin County APA office located at 1030 Alum Creek,

Can Ex-Offenders Vote? What They Said In Columbus



Columbus, Ohio, on July 1, 2004. PRAC staff interviewed 17 ex-offenders in the waiting area of the APA office did not see a “voting rights” sign.

As shown in Table 1(d), 29% of the respondents

stated that they were ineligible to vote. 71% answered that they were eligible to vote.

When these individuals were asked how they knew that they could vote, most told PRAC staff that they had been informed by members of the community or by people registering voters outside of the APA office.

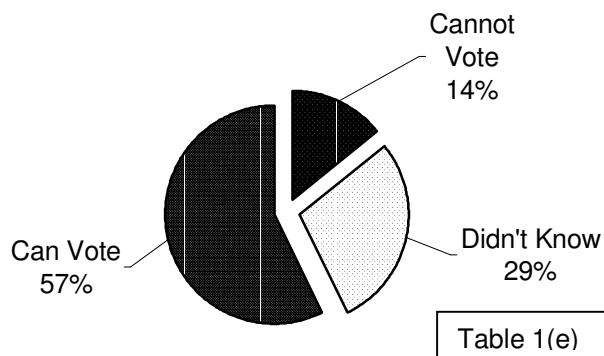
5. Toledo (Lucas County)

"Hey man, on my way to register right now."

— Toledo parolee upon hearing that there was a voter registration office downstairs from the APA office.

PRAC staff visited the Lucas County APA office located at One Government Center, Room 1013, Toledo, Ohio on July 13, 2004. PRAC staff interviewed 14 ex-offenders in the waiting area of the APA office. Furthermore, PRAC staff observed a sign posted in the waiting area stating, "Change your World, VOTE."

Can Ex-Offenders Vote? What They Said In Toledo



As shown in Table 1(e), 14% of the respondents believed they were ineligible to vote because of their status as felons on probation, parole, or post-release control supervision. Also, 29% of

the respondents did not know whether they were eligible to vote. 57% stated that they could vote as soon as released from prison.

6. Akron (Summit County)

"Ex-offenders don't have any rights."

— Akron parolee's response to the question, "Can you vote on parole?"

PRAC staff visited the Summit County APA office, located at 161 S. High Street,

Suite 104, Akron, Ohio, on July 27, 2004. PRAC staff interviewed 4 ex-offenders in the waiting area of the APA office. PRAC staff members observed a sign reading, “Don’t Vote Much? Don’t Expect Much. VOTE! [X]PECT MORE OHIO 2004.”

Can Ex-Offenders Vote? What They Said In Akron.

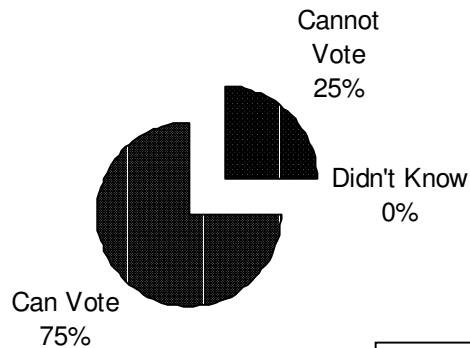


Table 1(f)

As shown in Table 1(f), 25% of the respondents believed they could not vote because of their status as felons on probation, parole, or post-release control supervision. On the other hand, 75% of the respondents told PRAC staff

that they could vote as soon as released from prison. Due to the small sample size, Akron's results are less reliable than those from the other 5 cities.

7. Summary of Results of Interviews with Ex-Prisoners

Compared to ex-prisoners PRAC interviewed in other counties, ex-offenders living in Hamilton County were far more confused and misinformed about their eligibility to vote. 43% of ex-prisoners interviewed in Hamilton County believed that they were ineligible to vote while on community supervision, while another 13% did not know one way or the other. Thus, 56% of the Hamilton County respondents either believed that they were barred from voting or did not know that they could vote.

Three factors appear to explain the difference between Hamilton County and the other counties where we interviewed ex-prisoners. First, where signs were posted at APA offices advising former prisoners that they could vote, a greater percentage of

former prisoners knew they could vote. In Dayton, where such a sign is posted in the APA office, 71% of the respondents knew they could vote. In Toledo, where a voter sign is posted, 57% of the respondents knew they could vote. The information given on the sign also appears to make a difference. In Dayton, the sign explicitly stated that felons could vote while on probation or parole. In Toledo, the sign read, “Change Your World, VOTE,” but did not specify that those on community supervision could vote.

Second, a greater percentage of ex-offenders knew they could vote in counties where activists and community organizers were actively registering former prisoners to vote. The Cleveland results, where 77% of respondents knew they could vote, may be attributed to the presence and activities of the Cleveland-based Ohio Free the Vote Coalition.¹³ During the Columbus interviews, during which 71% of the respondents were aware they could vote, several of the respondents stated that they learned they could vote from community activists who were registering voters outside of the Columbus APA office. As in Cleveland, PRAC did not see a “voting rights” sign in the waiting area of the Columbus APA office. Furthermore, the higher level of awareness in Dayton, where a sign was posted, may also be attributable to the presence of the Miami Valley Free the Vote Coalition and the American Friends Service Committee, both of which have worked to inform ex-prisoners that they can vote.

Third, as will be discussed in more detail below, the Hamilton County BOE requires ex-offenders who seek to register to vote by mail to attach “documentation restoring voting rights.” As will be explained in more detail below, the sample documents Hamilton County’s BOE provides to ex-offenders as examples of how to

¹³ Ohio Free The Vote Coalition is an organization that works to raise awareness that ex-offenders can vote even while on community supervision.

establish restoration of rights suggest that former prisoners are not eligible to vote as soon as released from confinement. This may partially explain the difference between the results in Cincinnati and the other cities.

B. Board of Elections

“This is the question of the year.”

– Shelby County Board of Elections official referring to the question of whether ex-offenders on parole can vote.

There are 88 counties in Ohio, each with its own Board of Elections. By law, each BOE is responsible for determining the eligibility of voters living within its jurisdiction. Accordingly, all 88 BOEs should know that, under Ohio law, ex-prisoners are eligible to vote as soon as released from incarceration.

On three separate occasions, PRAC contacted a representative of each BOE by phone to ask whether a felon under some form of community supervision could vote. As illustrated in Tables 2 and 3, 20 BOEs across the state, including the Hamilton County BOE, indicated at least once that felons on probation or parole could not vote. An additional 13 BOEs stated during at least one of the survey rounds that they did not know whether felons could vote while on parole or probation.

Table 2 – Overall BOE Survey Results

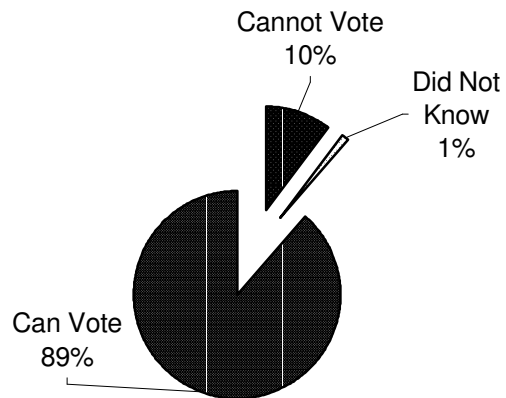
BOEs That Said That Ex-Offenders Cannot Vote (3 Times)	5 (Coshocton, Fayette, Harrison, Holmes, & Shelby)
BOEs That Said That Ex-Offenders Cannot Vote (2 Times)	4 (Lake, Mercer, Paulding, & Wood)
BOEs That Said That Ex-Offenders Cannot Vote (1 Time)	11 (Ashtabula, Belmont, Clinton, Delaware, Hamilton, Noble, Perry, Richland, Tuscarawas, Warren, & Washington)
BOEs That Did Not Know If Ex-Offenders Could Vote (2 Times)	2 (Allen & Clark)
BOEs That Did Not Know If Ex-Offenders Could Vote (1 Time)	11 (Adams, Athens, Belmont, Clermont, Clinton, Crawford, Darke, Defiance, Mahoning, Preble, & Williams)

Table 3

First Round of Phone Calls to Boards of Elections

Ex-Offenders Cannot Vote: Coschocton, Delaware, Fayette, Harrison, Holmes, Noble, Shelby, Warren, & Washington

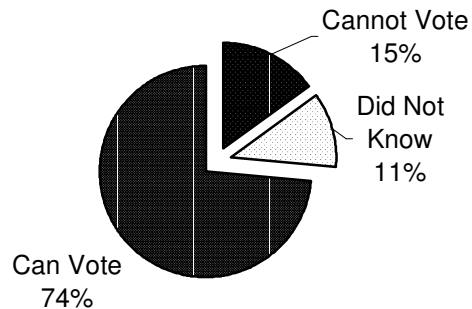
Did Not Know If Ex-Offenders Could Vote: Belmont



Second Round of Phone Calls to Boards of Elections

Ex-Offenders Cannot Vote: Belmont, Coschocton, Fayette, Harrison, Holmes, Lake, Mercer, Paulding, Shelby, Trumbell, & Wood

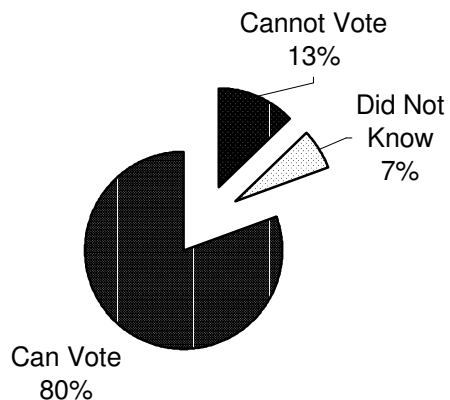
Did Not Know If Ex-Offenders Could Vote: Allen, Clark, Clinton, Mahoning, Preble, & Williams



Third Round of Phone Calls to Boards of Elections

Ex-Offenders Cannot Vote: Ashtabula, Clinton, Coshocton, Fayette, **Hamilton**, Harrison, Holmes, Lake, Mercer, Perry, Richland, Shelby, & Tuscarawas

Did Not Know If Ex-Offenders Could Vote: Adams, Allen, Athens, Clark, Clermont, Crawford, Darke, Defiance, Paulding, Wood



Some of the remarks made by BOE representatives during the surveys indicated the extent of confusion around felon voting eligibility in Ohio. For example, in Hamilton County, a BOE representative stated that felons who want to vote must produce “special documents” proving that the felon’s rights have been restored. This mirrored statements made by BOE representatives in Coshocton, Fayette, and Harrison Counties who indicated that a felon on probation or parole could vote only if he or she received a letter from the sentencing judge or was officially released from the sentence by the court. The Coshocton BOE representative added, “We just recently sent [an ex-offender] who came into the office away” because the man was still on parole.

More confusion arose at the Athens County BOE. After reading Ohio Revised Code § 2961.01 (which permits ex-prisoners to vote as soon as released from prison), the BOE representative stated that she did not know whether a person on parole could vote and referred the caller to the City Prosecutor's Office. The City Prosecutor also did not know the answer and suggested calling the County Prosecutor. The County Prosecutor purported to know the answer and confidently stated, “No, cannot vote until after parole.”

During a call to the Wood County BOE, the BOE representative with whom PRAC staff spoke actually gave the correct answer – people on parole or probation can vote. However, she was “corrected” by the BOE Director, who stated that a felon “must be done with everything” and have his or her rights restored by the court.

Perhaps the most disturbing remarks were made by a Clinton County BOE representative, who confessed that she did not know whether someone on parole could vote. Rather than try to determine the answer, the representative warned the caller, “It’s a felony to register if you are not allowed to vote and you will go back to jail.”

It is alarming that 20 BOEs said at least once that ex-offenders on probation or parole could not vote, while another 13 said on at least one occasion that they did not know the answer. If BOEs tell ex-prisoners they cannot vote unless released from probation or parole supervision, or if the BOE representative states that he or she does not know the answer to the question, many of these ex-offenders will not attempt to vote.

2. Hamilton County BOE

PRAC spoke at length with the Registration Administrator for Hamilton County to discuss how the BOE handles the registration of ex-offenders.¹⁴ In addition to discussing the process by which the Hamilton County BOE discovers the names of voters who have been convicted of felonies, PRAC learned two significant facts: (1) that felons who attempt to register by mail in Hamilton County must produce “documentation restoring voting rights”; and (2) that the sample “documentation restoring voting rights” provided to ex-offenders by the BOE implies that felons are not allowed to vote as soon as released from prison.

a. The cancellation of voter registration for felons.

Each month, pursuant to O.R.C. § 3503.18, the clerk of the court of common pleas files with the Hamilton County BOE “the names and residence addresses of all persons who have been convicted during the previous month of crimes that would disenfranchise such persons under existing laws of the state.” Upon receiving the names and addresses of felons, the Hamilton County BOE compares the information with its list of registered voters. Upon discovering that a registered voter has been convicted of a

¹⁴ She indicated that she was aware that felons may vote while on community supervision. This was in contrast to a BOE representative we spoke to during one of the surveys, who stated that felons are not allowed to vote until finished with community supervision.

felony, the Hamilton County BOE places an “F” by the name and cancels registration. The Hamilton County BOE does not record, file or note the names and addresses of felons who are not registered to vote.

b. The special documentation requirement for ex-offenders who seek to register to vote by mail in Hamilton County.

The Hamilton County Registration Administrator acknowledged that felons who are not incarcerated are eligible to register to vote. They may do so by submitting a voter registration application in person at the BOE or designated agency, by mail, or through an organization that collects completed applications and sends them to the BOE (as in a voter registration drive).¹⁵ If a felon seeks to register by mail, the Hamilton County BOE requires the individual to attach “documentation restoring voting rights.” Those who do not submit this documentation receive a letter from the Hamilton County BOE telling them that they must either register in person, or, if they wish to register by mail, produce proof that their voting rights have been restored. PRAC has learned that Hamilton County BOE has recently told at least 150 ex-offenders that they must register in person or attach proof of restoration of voting rights.¹⁶

According to the Hamilton County BOE, the purpose of these actions is to ensure that the felon has actually been released from prison at the time he or she attempts to register to vote. In practice, however, this requirement only applies to felons who were registered to vote at the time their registration was cancelled as a result of the felony conviction and who, consequently, have an “F” by their name.

¹⁵ Designated agencies include the Bureau of Motor Vehicles, County Treasurer’s Office, the Department of Human Services, Public Libraries, Public High Schools and Vocational Schools, United States Armed Forces, and State Supported Colleges and Universities.

¹⁶ Correspondence from a local American Civil Liberties Union representative to the authors, July 30, 2004.

The requirement that voters whose registration has been cancelled due to a felony conviction enclose “documentation restoring voting rights” when registering by mail is problematic for several reasons. First, non-felons who register to vote by mail or through private organizations conducting voter registration drives are not required to attach documentation proving that they live where they claim to reside on the voter registration application. Information submitted by voter registration applicants is assumed to be true unless the BOE determines otherwise. In other words, the BOE bears the burden of verifying that the information provided by the applicant is correct.

Second, with respect to felons who attempt to register, there is no reason to depart from the normal practice of requiring the BOE to verify the accuracy of information submitted by the applicant. The ODRC website contains an up-to-date database of all 44,000 Ohio inmates.¹⁷ Any person with Internet access can search the database by name to determine whether an individual is currently incarcerated in an Ohio prison, a task that would not unreasonably burden Hamilton County BOE employees seeking to verify that a felon has been released.¹⁸ This practice would eliminate confusion both in cases where ex-offenders themselves mail in registration forms and in instances where they register through private organizations conducting voter registration drives. Additionally, correspondence sent by Ohio prisoners bears a red stamp on the outside of the envelope stating “INMATE CORRESPONDENCE.” Any voter registration forms mailed by a prisoner incarcerated in Ohio would be easily identified as coming from a prison.

¹⁷ <http://www.drc.state.oh.us/search2.htm>.

¹⁸ Most states have online, searchable databases containing the names of those people incarcerated in the particular state. Thus, in a situation where the BOE receives an application from a felon who was incarcerated in another jurisdiction, the BOE could use these databases to verify the felon’s release. Where

- c. The sample documentation showing restoration of voting rights, which the Hamilton County BOE provides to felons, is confusing and misleading.**

The Hamilton County BOE distributes a packet entitled, “Process For Restoring Voting Rights Of A Felon Who Has Served Time In Prison” to felons who inquire about their eligibility to vote.¹⁹ The first page (Appendix A) is a fact sheet, explaining, among other things, the requirement that felons who want to register by mail to vote must attach “documentation restoring voting rights.” Although the fact sheet correctly notes that a felon “may register as a new voter once he/she is granted probation, parole, or conditional pardon,” attached to the fact sheet are two examples of documentation restoring voting rights: (1) a Notice of Termination (from probation) and (2) an Expiration of Sentence (from the ODRC). Both items confuse, rather than clarify, when felons are able to vote.

i. Notice of Termination (probation)

The sample Notice of Termination (probation) attached to the “Restoring Voting Rights” fact sheet (Appendix B), states: “You have successfully completed service of your sentence, and *you are hereby terminated from supervision by this office*” (emphasis added). This sample document has the potential to mislead ex-offenders into believing that they must finish supervision before they can vote, since the key language in the Notice is “you are hereby terminated from supervision.”

ii. Expiration of Sentence (ODRC)

The sample Expiration of Sentence document (Appendix C) also has the potential to confuse felons inquiring about their right to vote. The sample Expiration of Sentence document states:

a particular jurisdiction does not provide online access to offender information, the BOE could reasonably be expected to obtain the information by other means, such as a phone call to appropriate officials.

Having served the definite sentence imposed by the Court or the maximum sentence for the offense(s) for which you were convicted, the rights forfeited by your conviction pursuant to Section 2961.01 of the Ohio Revised Code are restored. These include your right to vote

The term “maximum sentence” refers to the indeterminate sentencing scheme that existed prior to July 1, 1996. Under indeterminate sentencing, an offender sentenced to prison time received a minimum and maximum sentence (e.g., 1 to 3 years). The lower number represented the minimum term that must be served before the prisoner became eligible for parole, with the higher number representing the maximum sentence that could be served before release would be mandatory. Under Ohio’s new sentencing law, an offender receives a definite prison term that is followed by a period of post-release control. Although indeterminate sentencing was abolished for offenses committed after July 1, 1996, indeterminate sentences imposed prior to that date remain intact. Thus, “old law” prisoners sentenced prior to the July 1, 1996 change in the law are still eligible to be released on parole before expiration of a maximum sentence. When these old law prisoners are released on parole, they are eligible to vote because they are no longer incarcerated.

The sample Expiration of Sentence document is misleading with respect to prisoners serving indeterminate sentences because it states that voting rights are restored once the maximum sentence is served. This is not the law; felons are eligible to vote once released on parole.

C. Ohio Department of Rehabilitation and Correction

The ODRC oversees both the operation of Ohio’s 32 prisons and the administration of the Adult Parole Authority (APA), the agency responsible for

¹⁹ See Appendix A, B, and C

supervising former prisoners released to the community. Both the ODRC prison system and the APA are important sources of information for prisoners and ex-prisoners inquiring about their rights – including the right to vote – upon release.

1. Voter Registration Information Provided by the Prison System

"Voting classes are optional because central office said they could be. The other classes are mandatory though. I disagree. Voting should be mandatory too."

— Prison representative's response to the question, "Are voter education classes required?"

The ODRC has developed a curriculum to teach prisoners about their voting rights upon release. PRAC obtained a copy of the curriculum from the ODRC Reentry Administrator. According to the Reentry Administrator, the curriculum has been distributed to each prison and is taught in classes provided to prisoners scheduled to be released within six months. Prisoners who take the class are verbally told that they can vote upon release from prison and are supposed to receive, among other documents, a pamphlet explaining the voting rights of ex-prisoners in Ohio, a State of Ohio voter registration form, and a listing of all 88 county boards of elections.

In order to determine whether this curriculum has actually been implemented in each institution, we attempted to contact the pre-release coordinators for each prison. PRAC staff spoke to representatives (ranging from pre-release coordinators to wardens) at a majority of the prisons.²⁰ The results from these conversations were promising, but could have been better. The majority of ODRC prisons provide education on voting rights monthly; however, these classes are not mandatory at all prisons. One representative said, "Voting classes are optional because central office said they could be. The other classes are mandatory though. I disagree. Voting should be mandatory too."

Furthermore, even in the prisons where the voting class is mandatory, attendance is difficult to track due to budget cuts and staff shortages. Thus, even when a prison is attempting to educate all releasees on their voting rights, some inmates can slip through the cracks. According to one representative, because of “budget cuts [we] don't have resources to hunt people down and make sure they attend classes.”

Lastly, the curriculum varies from prison to prison. Although all the prisons that provide voter education advise prisoners that they can vote upon release, not all follow ODRC's “Registering to Vote” policy. Some prisons merely give pamphlets to the inmates to inform them of their right to vote. On the other hand, one prison has a very detailed and comprehensive curriculum. The representative there listed the 4 objectives of voting rights lesson plan – 1) identify inmates who will be eligible to vote; 2) specify qualifications for voting; 3) identify places where they can go to register; and 4) advise them that they have to register in the state where they will reside. Additionally, this prison passes out a voter registration form and DOJ pamphlets.

Despite the high number of prisons who offer voter education, it is clear that not all inmates are receiving this education. This can be due to a variety of reasons, but mainly it is because of the lack of uniformity within the prison system.

2. Voter Registration Information Provided By The APA

We spoke with representatives of the APA offices located in the six counties where we surveyed ex-prisoners – Cuyahoga, Franklin, Hamilton, Lucas, Montgomery, and Summit – to determine what information is provided to former prisoners who call to

²⁰ All 32 of the prisons were contacted and we spoke with representatives from 30 of them. Lima Correctional Institution was not contacted or counted because it is technically closed.

inquire about their voting rights upon release from incarceration. The results are reported below in Table 4.

Table 4

County	APA Office	What They Said
Cuyahoga	Cleveland Regional	Would Not Answer Question Because They Don't Discuss Voting Rights With Ex-Offenders
Cuyahoga	Cleveland "Self Center"	Ex-Offenders Can Vote
Franklin	Columbus Regional	Do Not Know If Ex-Offenders Can Vote, Contact Cincinnati Regional Office
Franklin	Columbus Satellite	Do Not Know If Ex-Offenders Can Vote, Contact Columbus Regional Office
Hamilton	Cincinnati Regional	Ex-Offenders Can Vote
Lucas	Toledo District	Do Not Know If Ex-Offenders Can Vote, Contact Columbus Regional Office
Montgomery	Dayton District	Ex-Offenders Cannot Vote
Summit	Akron Regional	Ex-Offenders Can Vote

As illustrated in Table 4, only two offices said that ex-offenders can vote while on community supervision: the Cincinnati Regional office and the Cleveland "Self Center" office. Both of the Adult Parole Authority offices in Franklin County – Columbus Regional and Columbus Satellite – said that they did not know if

ex-offenders could vote. The Columbus Satellite office referred us to the Columbus Regional office, who said to call the Cincinnati Regional office. Additionally, the Toledo District office referred us to the Columbus Regional office. The Cleveland Regional representative would not answer the question, instead responding, "We do not discuss voting rights with ex-offenders." The Dayton representative informed us that ex-offenders could not vote.

D. Significance of the Facts

It may be tempting for some who read this report to conclude that there is no need for concern because most released felons around the state understand that they are eligible to vote as soon as released from incarceration. With the exception of Cincinnati, most of the respondents interviewed, including more than 70% of felons on community supervision in Akron, Cleveland, Columbus and Dayton, knew that they could vote. In addition, the ODRC has developed an excellent voter education program that has been distributed to each prison.

The problem, however, is that a significant percentage of felons who are eligible to register to vote are not doing so because they lack awareness of their rights. These votes could represent the margin of difference in a close election. If 20% of the 34,000 ex-offenders on community supervision in Ohio are not voting because they erroneously believe they are ineligible to do so, then 6,800 potential votes have been lost. Our democracy requires that the voices of all eligible voters who wish to vote be heard.

Because our goal is to ensure that every ex-offender in Ohio understand that he or she may vote so long as not incarcerated, we offer the following recommendations.

IV. RECOMMENDATIONS

A. Secretary of State

In Ohio, the Secretary of State oversees the elections process and appoints the members of the county BOEs. As Ohio's chief elections officer, it is necessary that the Secretary of State appoint BOE members who are knowledgeable about all Ohioans' voting rights. We recommend that the Secretary of State make certain that all local BOEs

understand and enforce Ohio Revised Code § 2961.01 – specifically allowing felons to register to vote as soon as released from incarceration.

In addition to overseeing the BOEs, the Secretary of State designates agencies that may register voters.²¹ We recommend that this power be used to designate Adult Parole Authority offices as official voter registration locations. Consequently, ex-prisoners not only would be able to register to vote while visiting an APA office, but also would be more aware of their voting rights.

B. Boards of Elections

The county BOEs are often the first place citizens go to learn about their voting rights. It follows that the BOEs should be knowledgeable about felons' voting rights once released from incarceration. Our research shows that this is not always the case.

Local BOEs must take steps to ensure that each employee knows that voting rights are restored upon release from incarceration. One possible way to educate and train each employee would be a class for all employees. This class could be taught to newly hired employees and as a yearly refresher course. During the training, employees should be provided with information on who can vote in Ohio. This information should include Ohio Revised Code § 2961.01 and the following explanation: "Felons CAN vote as soon as they are released from prison. This includes those individuals on parole, probation, post-release control, shock probation, and shock parole."

In addition, BOE rules requiring felons to produce documentation showing restoration of voting rights should be eliminated in Hamilton County and all other counties where they are in place. Not all county BOEs require this documentation, and in those counties that do, it is confusing. Additionally, this requirement may have the effect

of dissuading eligible ex-offenders from registering. This rule should be eliminated immediately.

Lastly, there should be a sign posted in every BOE waiting area advising former prisoners, in everyday language, that voting rights are restored upon release from incarceration.

C. Ohio Department of Rehabilitation and Correction – Prison System

While the ODRC voter education classes are a big step in the right direction, our research showed that the program has not been smoothly implemented in every prison. More must be done to ensure that every released prisoner understands he or she can vote. First, the ODRC should provide every released prisoner, at the time the prisoner is being released from incarceration, with written notice that his or her voting rights have been restored.

Second, the ODRC should go a step further and provide each released prisoner with a voter registration form. This will provide the ex-offender with the means and opportunity to register to vote.

Third, the ODRC should post signs conspicuously throughout each facility advising prisoners, in everyday language, that voting rights are restored upon release from incarceration.²²

D. Adult Parole Authority

The APA should take the following steps to ensure that ex-offenders on community supervision are aware of their voting rights.

²¹ Ohio Revised Code § 3501.01 (x).

²² The Ohio Free the Vote Coalition has made progress in getting signs posted throughout the prison system. We call on the ODRC to complete this work immediately.

First, APA officers should be required, as part of the initial supervision meeting, to verbally inform each ex-offender on community supervision of his or her right to vote. This will not only re-affirm the voter education the individual received in prison, but also allow the ex-offender to ask any questions about his or her voting rights.

Secondly, the standard post-release supervision form should be amended to include a provision about voting rights. The provision should be to the effect, “I am aware of my right to vote and understand that voting is an important responsibility of all citizens.” Because individuals on community supervision must sign this form, they will be reminded of their right to vote while on community supervision.

Lastly, APA offices should make voter registration forms available to ex-offenders who express interest in registering to vote. This would reinforce an important message: all eligible voters, including ex-offenders, should vote.

E. Correctional Institution Inspection Committee

The Correctional Institution Inspection Committee (CIIC) is a bipartisan legislative committee established by Ohio Revised Code §§ 103.71 to 103.74.²³ One of the duties of this committee is to “evaluate and assist the development of programs to improve the condition or operation of correctional institutions.”²⁴ Consequently, we call upon the CIIC to ensure and help implement the ODRC-prison system recommendations we have proposed. Specifically, the CIIC should work to ensure that every released prisoner is provided with written notice of restoration of his or her voting rights and a voter registration application at the time of release from incarceration. Lastly, the CIIC should make sure that voter education signs are posted throughout Ohio’s prison system.

²³ <http://www.ciic.state.oh.us/charge/index.html>.

²⁴ Ohio Revised Code § 103.73(A)(2).

V. CONCLUSION

We must redouble our efforts to ensure that ex-offenders reintegrate successfully into society upon release from prison. As President Bush said during his 2004 State of the Union Address, “America is the land of second chance, and when the gates of the prison open, the path ahead should lead to a better life.” The path to a better life for ex-offenders begins with restoration of the important rights of citizenship, including the right to vote. Fortunately in Ohio, ex-offenders can vote as soon as released from incarceration. We should do all we can to educate ex-offenders about this important right and encourage them to vote.

APPENDIX

Process For Restoring Voting Rights Of A Convicted Felon Who Has Served Time In Prison

If you have been convicted of a felony and served time in prison on the felony and wish to restore your voting rights in Hamilton County:

- The Hamilton County Board of Elections will accept a voter registration application by mail if the registration form is accompanied by documentation restoring voting rights. Documentation may be obtained through the U.S. Probation Department, the Adult Parole Authority or the Ohio Department of Rehabilitation and Corrections. (See attached samples of acceptable documentation)

Or

- You may appear in person at the Hamilton County Board of Elections, or a Designated Agency, and fill out a voter registration application. Designated agencies include:

Department of Human Services including:
 Department of Health
 Department of Mental Health
 Department of Mental Retardation and Developmental Disabilities
 Rehabilitation Services Commission
 State Supported Colleges and Universities

Other Governmental Agencies and Public Institutions required to provide Voter Registration are:

Bureau of Motor Vehicles
 County Treasurer's Office
 Public Libraries
 Public High Schools & Vocational Schools
 United States Armed Forces

Please Note:

- Any qualified elector who is confined in a jail or workhouse under sentence for a misdemeanor or awaiting trial on a felony or misdemeanor and is unable to travel from elector's home or place of confinement to the voting booth on the day of any general, special, or primary election may make application in writing for an absent voter's ballot.
- A person confined in a jail or workhouse under sentence for a misdemeanor or awaiting trial on a felony or misdemeanor and currently is not a registered voter, may register.
- A convicted felon who is not currently a registered voter may register as a new voter once he/she is granted probation, parole, or conditional pardon, without noting his prior felony.

B.

*** SAMPLE ***
DOCUMENTION RESTORING VOTING RIGHTS



UNITED STATES PROBATION DEPARTMENT

SOUTHERN DISTRICT OF OHIO

NOTICE OF TERMINATION

NAME
ADDRESS

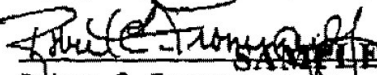
Docket Number **XXXXXXXXXXXX**
Date Sentence Imposed **XXXXXXXXXXXX**
Date Sentence Expired **XXXXXXXXXXXX**

You have successfully completed service of your sentence, and you are hereby terminated from supervision by this office.

We wish you continued success in the future.


SAMPLE

David E. Miller
Chief, United States Probation Officer


SAMPLE
Robert C. Frommeyer, Jr.
United States Probation Officer

C.

*** **SAMPLE** ***
DOCUMENTATION RESTORING VOTING RIGHTS

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION



EXPIRATION OF SENTENCE

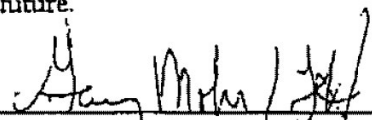
Effective Date
Effective Date

TO: **Name** _____ INSTITUTION NUMBER: **Number** _____

Having served the definite sentence imposed by the Court or the maximum sentence for the offense(s) for which you were convicted, the rights forfeited by your conviction pursuant to Section 2961.01 of the Ohio Revised Code are restored. These include your right to vote, to serve or jurys, and, unless precluded by Sections 2921.02, 2921.41 and 2921.43 or other Sections of the Revised Code, to hold and office of honor, trust or profit.

The expiration of your sentence does not relieve you of any disability prohibiting you from possessing a firearm under Section 2923.13 of the Revised Code.

We offer our best wishes for your success in the future.



Warden or Chief of the APA

Date: **Date** _____

I have this date received from: CORRECTIONAL RECEPTION CENTER
my Certificate of Expiration of Sentence on Number _____

Signed: **Signature** _____