



WHITE PAPER

TAXATION WITHOUT REPRESENTATION

Why Rhode Island needs to restore voting rights to people
with felony convictions living in our communities

By

The Rhode Island Right to Vote Campaign

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EXECUTIVE SUMMARY

Felon disenfranchisement is the legal restriction of voting rights due to a past or current felony conviction, preventing approximately 4.7 million citizens from voting nationwide.¹ In response to a rising chorus of objections that such laws are unfair, unjustifiable, and unconstitutional, states have begun to reconsider their felony disenfranchisement laws. Since 2000, ten states – including Alabama, Connecticut, Delaware, Maryland, Nebraska, Nevada, New Mexico, Pennsylvania, Virginia, and Wyoming – have liberalized their laws for restoring the franchise to people with felony convictions. While larger states garner more national attention, Rhode Island stands alone amongst its closest neighbors as the only state that bars felons on probation from voting.² In total, nearly 15,500 Rhode Islanders are disenfranchised due to felony convictions. Yet of those, eighty-six percent are *out of prison* and living in our communities.³ In other words, 13,000 members of our community are maintaining employment, paying taxes, and doing their best to provide for their families but are barred from the political process that shapes their ability and opportunity to reintegrate into normal society. On the surface, arguments supporting continued felon disenfranchisement might seem persuasive. However, this white paper makes the compelling case that felon disenfranchisement is excessive political punishment on individual Rhode Island citizens *and* the communities in which they reside.

THE CASE FOR THE RESTORATION OF VOTING RIGHTS

Second Class Citizenship

People with felony convictions in our communities face more difficulty regaining their right to vote than finding employment, housing, and admission to educational programs once they leave the Adult Correctional Institution (ACI) or any other like facility. In other words, the Rhode Island correctional system deems these offenders eligible to return to normal society but the state prohibits their exercise of the right to vote. Eighty-six percent of people barred from voting are living in Rhode Island communities and paying taxes, trying to find employment, and living as ordinary citizens while nevertheless enduring a *political death* for the duration of their parole and probation terms.

¹ Alec Ewald, Demos: Punishing at the Polls: *The Case Against Disenfranchising Citizens with Felony Convictions* (24 November 2003), 13. (Accessed at: <http://demos-usa.org/pub109.cfm>)

² Sentencing Project, The: *Felony Disenfranchisement Laws in the United States* (March 2005). (Accessed at: <http://sentencingproject.org/pdfs/1046.pdf>)

³ Keough, Nina and Clement, Marshall: Political Punishment: *The Consequences of Felon Disenfranchisement for Rhode Island Communities* (September 2004), 2.

In light of the stated goals espoused by the Rhode Island Department of Corrections, this line of thinking emerges as oxymoronic:

*Probation and Parole are correctional supervision units which allow the offender to remain within the community while fulfilling requirements which include accountability, responsible law-abiding behavior, and willingness to accept and make use of appropriate rehabilitative interventions.*⁴

If parole and probation are meant to facilitate “the meaningful reintegration of offenders into the community”⁵ via accountability, responsibility, and utilization of rehabilitative interventions, disenfranchisement undermines these goals by denying ex-offenders meaningful involvement in the civic life of their communities. How can we expect individuals on probation and parole to be good citizens, when the state constitution currently denies them the most basic and defining right of citizenship, the right to vote? Instead, the practice of felon disenfranchisement keeps former offenders from participating in democracy and crushes their pro-social aspirations, making it that much more difficult for RIDOC to fulfill its goals.

Let’s take the example of Andres Idarraga. He was an honors student at Moses Brown but along the way went down a path that caught him up in the drug lifestyle in our cities’ streets. After serving six and a half years in the ACI, he will now serve 4 more years of parole and 27 years of probation.⁶ Since returning to our community, he has enrolled into the University of Rhode Island and is running a legitimate business with other members of his neighborhood. Despite commendable accomplishments in reintegrating back into our community, he will not be able to vote for the next thirty years under current Rhode Island law. His is but one example of the more than 13,000 citizens living in our community, trying to make a change in their lives, but denied a basic right decade after decade. Sol Rodriguez, Director of the Rhode Island Family Life Center, declares

“We’re asking these people to come back into society and get a job, yet we’re taking away their right to be a good citizen. Many people [...] are trying to keep their life together. They pay taxes, yet they can’t vote.”⁷

How can we expect to integrate these citizens if we continue to deny them the primary function of a citizen? Instead, we must support restoration of the right to vote to people on parole or probation living in our community in order to proclaim, without hypocrisy, that Rhode Island does not tolerate or perpetuate second-class citizenship.

⁴ Stated purpose of RI Department of Corrections Office of Rehabilitative Services, which oversees probation and parole supervision. See: http://www.doc.ri.gov/divisions/rehab_service.htm

⁵ Ibid.

⁶ Ziner, Karen Lee: Providence Journal: State Law Keeps Felons’ Voting Rights in Check (2 November 2004). (Accessed at: http://www.projo.com/news/content/projo_20041102_felon2.4af8b.html)

⁷ Ibid.

Vote Dilution

One of the most poignant and profound arguments in favor of re-enfranchisement is the problem of vote dilution. Fifty-eight percent of Rhode Island's disenfranchised come from five cities: Central Falls, Newport, Pawtucket, Providence, and Woonsocket.⁸ Taking our earlier figure, these communities are having their voices diluted by almost 9,000 votes each election cycle. This means that not only is the voice of the individual on parole or probation silenced, the voices of their communities are being muted at the same time.

If we look even further we find that eleven percent of South Providence residents cannot vote as compared to less than a half-percent of College Hill residents (see Table A, page 7).⁹ This disparity is leeching voting power from our communities and disproportionately affects those communities whose historical representation in the political process has been unequal to their numbers. Disenfranchisement has certainly factored into this condition. We must overturn laws that mute the voice of these communities recognizing our duty to ensure that every voice within our polity is heard.

Disproportionate Effect on Minorities

Rhode Island's original constitution was unique in its inclusion of voting rights for African Americans. By 1855, Rhode Island was one of five northern states to do so, making it one of the most inclusive suffrage policies of that era.¹⁰ Today however, Rhode Island ranks thirteenth in the nation for the highest percentage of African-Americans who are barred from voting due to the state's felony disenfranchisement law. Statewide, one in five black men is disenfranchised due to a felony conviction.¹¹ This means that the electoral power of black men is reduced by twenty percent every election cycle. Looking at individual communities, the numbers are more staggering. More than forty percent of 18-34 year old black men cannot vote in parts of South Providence.¹² The figures are even more astonishing when juxtaposed against one percent of white Rhode Islanders that are disenfranchised.¹³

Given the history of racial discrimination in voting and criminal justice, it is only prudent for these figures should provoke skepticism about Rhode Island's current felon disenfranchisement law. The Supreme Court has held that the federal Voting Rights Act is violated if:

[B]ased on the totality of circumstances, it is shown that the political processes leading to nomination or election in the state or political subdivision are not equally open to participation [by a racial group].¹⁴

The vast racial disproportionality of felon disenfranchisement in Rhode Island should give anyone pause to ask whether race discrimination has a role in disenfranchising so many minorities. But whatever their intent, felon disenfranchisement laws only magnify and

⁸ Keough and Marshall, 3. See note 3.

⁹ Keough and Marshall, 5. See note 3.

¹⁰ Rhode Island Family Life Center: *Rhode Island's Shrinking Black Electorate* (February 2005), 1.

¹¹ Keough and Marshall, 2. See note 3.

¹² Keough and Marshall, 6. See note 3.

¹³ Keough and Marshall, 2. See note 3.

¹⁴ Ewald, 38. See note 4.

compound systemic bias, resulting in policies that threaten our democratic character. A policy so closely linked to our discriminatory past should survive only if we have an overwhelming need for it.¹⁵ Disenfranchisement in Rhode Island does not meet that standard.

DEBUNKING THE CASE FOR RESTRICTING VOTING RIGHTS

Disenfranchisement as punishment?

Proponents of disenfranchisement assert that those convicted of felonies have shown a lack of respect for the law. Therefore, retracting former and current felons' suffrage rights serves as punishment for those who show contempt for the state. Furthermore, by barring felons from voting, it is sometimes thought that disenfranchisement acts as a deterrent to crime. But common sense and various studies have shown that such logic is flawed. Felon disenfranchisement does nothing to improve public safety in Rhode Island and has little to do with reducing crime. According to some of the nation's foremost social scientists and criminologists, there is no rational purpose in denying the vote to parolees and probationers; denying suffrage to them in fact contradicts the purpose of rehabilitating offenders.¹⁶

Actually, restoring voting rights to people with felony convictions living in the community positively affects them and their communities by reducing recidivism. For instance, one study shows that voters were about fifty percent less likely than non-voters to commit crime, be arrested, or be incarcerated. "Voting appears to be part of a package of prosocial behavior that is linked to desistance from crime."¹⁷ In other words, voters are less likely to commit crimes than non-voters all things being equal. When it comes to deterring crime, slowing down recidivism rates, and rehabilitating offenders, voting and political participation are factors. When citizens participate regularly in politics, they develop an explicit identification with the polity and its norms and values.

Subversive Voting?

In addition to political punishment, proponents of felon disenfranchisement also suggest that former felons are likely to support legalizing various criminal acts, thereby threatening the authority of the state. This postulation is both false and unconstitutional. First, research has shown that the majority of offenders take responsibility for their crimes. Political Scientist Jonathan D. Casper found through interviews with offenders that most believed "they had done something wrong." Furthermore, these same inmates believed that the laws that convicted them were justified *and* their "behavior should not be tolerated but merited punishment."¹⁸ The notion that offenders will lobby for the legalization of currently criminal acts lacks any empirical support.

¹⁵ Ewald, 40. See note 4.

¹⁶ Amicus brief filed in NAACP v. Harvey, a challenge to New Jersey's disenfranchisement of parolees and probationers, currently pending in that state.

¹⁷ Uggen, Christopher and Manza, Jeff: Voting and Subsequent Crime and Arrest: Evidence from a Community Sample (2004). (Accessed at: http://www.soc.umn.edu/~uggen/Uggen_Manza_04_Chri.r2.pdf)

¹⁸ Ewald, 33. See note 4.

Furthermore, the Supreme Court, in *Carrington v. Rash*, declared such concerns unconstitutional.

“‘Fencing out’ from the franchise a sector of the population because of the way they may vote is constitutionally impermissible.”¹⁹

This pivotal case completely debunks laws barring voters from the political process because of their presumed ideology. And if we bar former felons from voting because we think they may vote a certain way, the state has a duty to bar any other individual from voting if their beliefs are not in step with majority thinking. Had such been the case, African-Americans, women, and other minorities would still be treated as second-class citizens. Instead, the fierce protection of minority opinions is a hallmark of our nation and our state. Barring former felons living in our communities from voting based upon such reasoning is undemocratic and is unconstitutional.

CONCLUSION

The debate over felon disenfranchisement hinges on one fact: voting is a right and not a privilege. As such, it does not make moral or legal sense to bar over thirteen thousand Rhode Island citizens from exercising their rights. Further, the restriction of voting rights makes no impact in our communities as a punishment, rehabilitative tool, or deterrent. Since the constitutional change in 1986 abridging voting rights of people with felony convictions living in our communities, the number of citizens on probation or parole in Rhode Island has increased nearly 70 percent; hardly supportive evidence that voting restrictions help maintain stability in our state. Conversely, we have seen how felon disenfranchisement actually has a *debilitative* effect on communities of color, urban populations, and serves as an instrument of vote dilution. Noting the fallacies of restrictive voting rights statutes, many national organizations have begun to support the restoration of voting rights such as the American Bar Association which has issued a resolution stating jurisdictions should not deprive convicted persons of the right to vote except during actual confinement.²⁰

The Rhode Island Bar Association, State Council of Churches, Common Cause, and thirty-four other local organizations have endorsed current legislation amending the state constitution, which would restore voting rights upon discharge from incarceration. It appears that as states and organizations – whose ideologies vary across the political spectrum – learn more about the practice of felon disenfranchisement, they are making efforts to align themselves with laws that do not restrict voting rights. Thus, if we seek to join our New England neighbors’ unwillingness to perpetuate second-class citizenship then we must end this modern day condition of taxation without representation.

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For questions, comments, or concerns please visit: <http://www.ririghttovote.org>

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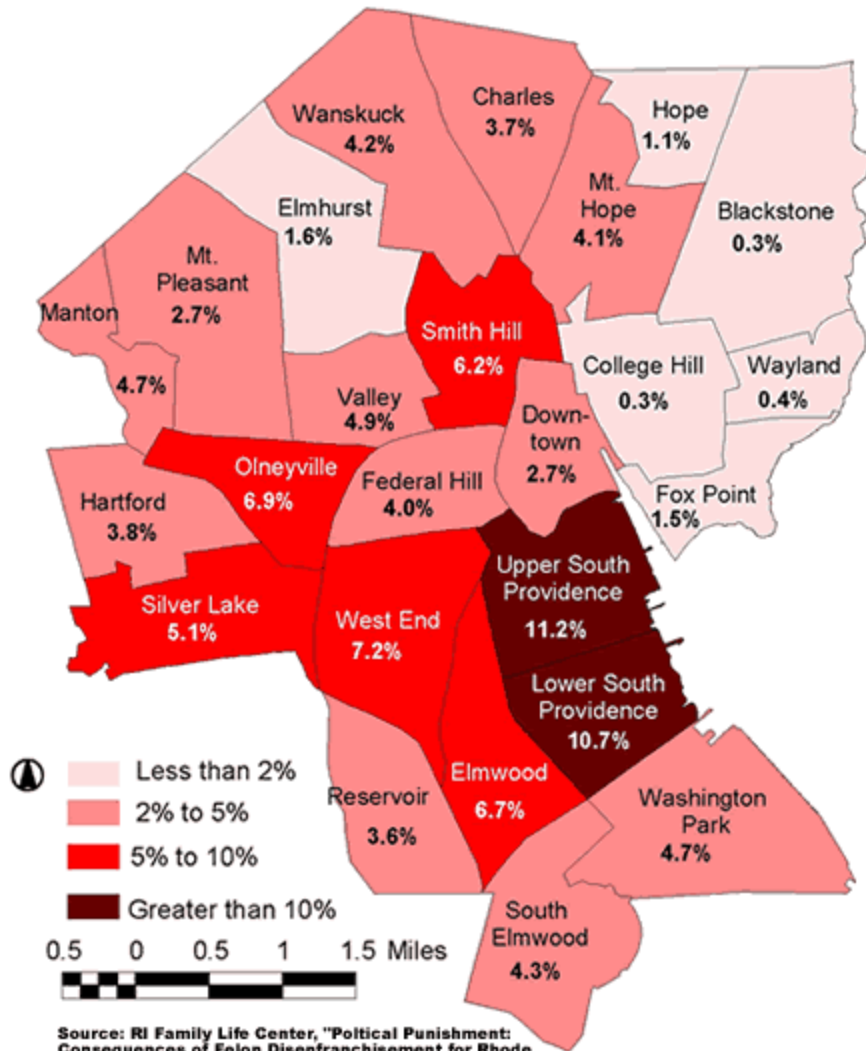
¹⁹ *Carrington v. Rash*, 380 US 89, 94 (1965).

²⁰ Steering Committee on the Unmet Legal Needs of Children, American Bar Association: *Report to the House of Delegates* (August 2003), 5. (Accessed at: <http://www.abanet.org/leadership/2003/summary/101a.pdf>)

TABLE A

Disenfranchisement in Providence, RI

Percentage of residents, 18 years and older, unable to vote in each neighborhood.



Source: RI Family Life Center, "Political Punishment: Consequences of Felon Disenfranchisement for Rhode Island Communities," September 2004.
www.ri-familylifecenter.org