



**THE
SENTENCING
PROJECT**

RESEARCH AND ADVOCACY FOR REFORM

VOTING IN JAILS

ADVOCACY STRATEGIES TO #UNLOCKtheVOTE

“My voice should be heard, even from the incarcerated state.”

Frank Baker was detained in Texas' Harris County Jail but didn't know he was eligible to vote until the advocacy group, Houston Justice, helped him register. He wishes the jail had a better system in place to inform detainees of their right to vote.¹

Each new election cycle presents an opportunity to improve voter access for persons who are legally eligible to vote among the approximately 549,000 individuals in U.S. jails.² The vast majority of persons in jails are eligible to vote because they are not currently serving a sentence for a felony conviction, but are incarcerated pretrial or sentenced to a misdemeanor offense. However, incarcerated voters often experience significant barriers to voting because of misinformation, institutional bureaucracy that varies from one county/city to another, and deprioritization among government officials.

In most states there are underdeveloped practices for people incarcerated in prisons and jails to register or access absentee ballots and/or polling locations. Many incarcerated residents cannot freely communicate via phone or email with election officials to monitor their voter registration or ballot applications. Voter education for justice-impacted citizens is often limited and varies across states and results in too many Americans being left behind each election season.

Recent reforms and a growing civic infrastructure offer opportunities to strengthen voting access and ensure the franchise for every individual, regardless of their incarceration status. This briefing paper provides cases that support expansion of voting access and can inform state and local advocacy efforts.

1. Expanding Voting Access in Jails Advances Racial Justice and Democracy

Obstacles to voting by incarcerated people disproportionately impacts people of color. Black and Latinx people make up 52%³ of persons in jails nationally. Disparate outcomes transcend what can be accounted for by racial disparities in criminal offending. Black Americans, especially Black men, are more likely to be stopped by police, searched by police, shot by police, arrested by police, charged by prosecutors with more severe crimes, incarcerated pretrial, receive higher bail amounts, have lower diversion rates, and receive harsher sentences than similarly situated white Americans and experience lifelong collateral consequences including felony disenfranchisement.⁴

Racial justice advocates and democracy champions in New York City recognize this interplay, and, as a result, monitor New York City's Department of Corrections' (NY DOC) facilitation of voter registration and absentee voting for incarcerated persons, many of whom are disproportionately Black and Latinx. At Rikers Island jail complex, the population is about 56% Black, 33% Latinx, and 7.5 % white.⁵ In 2021 more than 30 human rights and racial justice groups, like LatinoJustice PRLDEF and Color of Change, sent a letter to city officials addressing issues for incarcerated voters. The letter highlighted observations made by the New York Legal Aid Society which included people not being provided accurate information about their voting rights, lack of voting-related informational posters in high-traffic common areas, and negligence of correctional staff to correct misinformation that continues to deprive citizens of their voting rights.⁶ Local civic engagement groups and their volunteers collaborated with the NY DOC to assist in registering more than 1500 people across NYC jails between 2016-2019.⁷ Voter engagement efforts include hosting in-person voter registration drives, sending volunteers to Rikers Island to talk to eligible voters, and encouraging them to exercise their right to vote.

2. Community Groups Can Partner With Jail and Election Officials

“[Voting while in jail] is important because that population is most impacted by the laws, policies, and practices that are enforced or pushed by our politicians. Most times, laws and policies affect them more than individuals who are walking in our community on a daily basis.”⁸

- Percy Glover, Genesee County (Flint) Jail Voting Ambassador

Residents detained in jail without a felony conviction may legally vote in every state. An increasing number of advocacy organizations around the country work in coalition with local jail and election officials to facilitate voter registration and absentee voting, while other stakeholder coalitions are working to guarantee same-day voting for incarcerated residents.

An example of these productive collaborations is the Voting Access for All Coalition's ("VAAC") work with county officials in Michigan. VAAC registers eligible voters in jail and supports ballot access by engaging jail officials and county clerks to support voter education and electoral participation. Michigan jails detain more than 17,000 people in 88 facilities across 83 counties.⁹ In 2021, The VAAC surveyed Michigan county officials to document jail voting policies and found that 55% of Michigan's counties do have a policy or procedure to facilitate voter registration and absentee ballot access.¹⁰ The VAAC worked with jail and election officials and other community partners to expand its Vote by Mail in Jail program across the state of Michigan, assisting incarcerated voters with registering and requesting absentee ballots.

The coalition partnered with jail and detention facilities by developing regionally specific voter educational materials, training volunteers to host registration events at their local jails, and organizing volunteers to aid and address voter concerns. The VAAC hosts Jailed Voter Information Sessions and provides program participants with voter registration applications, absentee ballot request paperwork, nonpartisan voter guides and election deadline reminders at no cost to facilities or voters.

3. One Person Can Launch a Jail Based Voter Registration Initiative

The last presidential election inspired many residents to register new voters and support civic education. During 2020, the South Dakota League of Women Voters (LWV) launched a jail based voter registration initiative. Longtime activist Cathy Brechtelsbauer, a LWV volunteer, participated in a voting in jails webinar hosted by The Sentencing Project and established the initiative through a solo organizing campaign with innovative tactics. Cathy's leadership led her to meet with county officials including the Warden of the Minnehaha County Jail in Sioux Falls to make some simple requests:

1. Allow eligible voters currently housed at the jail access to voter registration cards and non-partisan election education materials;
2. Provide a designated ballot box for absentee ballots.

In addition to the Warden, Cathy reached out to election officials at the county level, and national organizations, like The Sentencing Project and Campaign Legal Center, for support. By October 13, 2020, just 6 days before the voter registration deadline in South Dakota, there were voter registration packets on the library carts of the Minnehaha County Jail moving from dorm to dorm and cell to cell.

4. Jails Can Be Polling Locations



Ensuring voting while incarcerated both maintains continuity for electoral participation and supports lifelong voter engagement. Yet most persons detained in jail who are eligible to vote do not cast their ballots. Current jail-based voter programs that rely on absentee voting often experience various challenges, including low incarcerated voter engagement. Moreover, jail administrators often lack knowledge about voting laws, do not prioritize incarcerated voter access programs, and do not address bureaucratic obstacles to establishing a voting process within institutions. Increasingly, advocates and officials are recognizing that establishing a polling location in local jails will improve voter access and turnout far better than jail-based absentee voting and voter registration initiatives. Two recent examples of this expansion of voting access occurred in Illinois and Texas where community organizations and corrections officials worked together to authorize polling locations at their local jails.

Cook County Jail in Chicago incarcerates about 6,100 residents each day.¹¹ Many of these individuals are eligible to vote under Illinois law but access to the ballot was still difficult in the jail. In order to address these voter access issues, in 2019, Illinois lawmakers adopted Senate Bill 2090, authorizing a polling location in the Cook County jail, following an advocacy campaign supported by ACLU of Illinois, Chicago Votes, League of Women Voters, Illinois

Justice Project, Chicago Lawyers Committee for Civil Rights, and Unlock Civics. The law requires Illinois counties with populations greater than 3 million to set up a voting location at their local jail allowing for in-person voting and same-day registration.¹² Cook County is the only county in the state with a population larger than 3 million. During the 2020 presidential election, around 2,200 people voted from four polling places across the Cook County jails.¹³ State groups have continued efforts to guarantee voting from jails. In 2021, lawmakers passed SB 825, a comprehensive voting rights law that includes a provision allowing each county sheriff to set up polling places in their local jails.¹⁴ Previously, people in those jails could vote only by absentee ballot.

In Texas, community groups like Houston Justice's Project Orange, the Texas Organizing Project, and the Texas Civil Rights Project helped establish a polling location in 2021 at the Harris County (Houston) Jail¹⁵ which detains about 9,000 people.¹⁶ Project Orange originally launched its campaign in 2018 to bring voter registration to the Harris County Jail, establish a polling location there, and educate the four county commissioners and county judges about jail-based voting in Texas.

“Being able to have Harris County Jail as a polling location is a product of years of advocacy and work by organizations across the county. Our office is honored to provide an opportunity to enfranchise voters in the Harris County Jail.”¹⁷

- Isabel Longoria, Harris County Elections Administrator

Establishing a jail-based polling location required collaborating with officers, checking with legal experts, and ensuring access to the jail for volunteers to staff the polls. Local community organizations also worked with the Voter and Registration Community Coordinator for the Harris County Elections Department to conduct outreach to underrepresented groups by partnering with local churches, schools, and the jail to expand voter participation through registration and ballot access efforts.¹⁸ As a result of these efforts, incarcerated residents voted at the jail in 2022 during the spring primary. And due to the efforts of community based organizations, jail and election officials have expressed continued commitment to improving electoral participation practices for incarcerated voters.

5. Jail-Based Plans Can Address Local Voting Requirements

Depending on the locality, voting requirements can surface barriers to voter registration that may seem difficult to overcome in a jail setting. But voting rights advocates and local officials can work to overcome those barriers with planning and support.

A good example of this type of local planning occurred in Oklahoma which has one of the highest state incarceration rates in the country and more than 10,621 people in jail.¹⁹ In Oklahoma a state law also makes jail-based voting particularly difficult by mandating that all absentee ballots be notarized.²⁰

This voting rights issue came to the attention of Oklahoma City Council Member Nikki Nice, who represents constituents detained at the Oklahoma County Detention Center. In late 2020, after attending a webinar hosted by The Sentencing Project (TSP) about jail-based voting,²¹ Council Member Nice was inspired to join weekly coalition calls organized by the newly-formed Jail-based Voting Coalition. This

coalition of national, statewide, and local partners, anchored by TSP, shares best practices, strategies, and resources including policy memos and sample letters to the editor to support voting in jails. As a result, Nice convened a stakeholder group of local Oklahoma City officials, including agency staff responsible for jail administration and county elections administration to support county jail voter registration and absentee voting. Nice's leadership resulted in a concrete plan to facilitate voter registration and absentee voting to eligible voters at the jail that also meets the challenges of the state law requiring the notarization of absentee ballots. Nice worked with officials in the county clerk's office and the election administration agency to facilitate public notaries entering the jail to allow incarcerated voters to have their absentee ballots notarized.

6. Encourage Jails to Host Candidate Forums

Advocates, officials and citizens can help build a culture that includes people in jail as part of the democracy by engaging them in civic participation and by informing elected officials of the needs of incarcerated people and problems with our criminal legal system. Unfortunately, direct contact between elected officials, candidates for political office, and incarcerated voters has rarely been facilitated in our political process. But this is beginning to change. In recent election cycles, stakeholder coalitions worked to support civic education and facilitate voter education by hosting candidate forums at local jails.

During the 2021 election cycle in Michigan, Genesee County Sheriff Chris Swanson and the IGNITE (Inmate Growth Naturally and Intentionally Through Education) program co-hosted a candidates' forum for residents at the jail. Over 20 city council candidates attended the "Meet the Candidates" Town Hall.²² Residents at the jail and candidates discussed ways to improve public education and support reentry programs.²³

Similarly, in 2018, officials at the Suffolk County House of Corrections in Boston, Massachusetts authorized a forum for residents to hear from the six candidates who ran for district attorney. As Suffolk County Sheriff Steve Tompkins pointed out, he wanted district attorney candidates to hear from people in his jail who are directly affected by prosecutor practices.²⁴ During the candidate forum, voters at the Suffolk County forum asked candidates about prosecutorial practices resulting in plea deals and an aging incarcerated population.²⁵

Conclusion

The nation's mass incarceration problem has led to record levels of disenfranchisement. But many justice-impacted residents, including those in pretrial jail detention, incarcerated in certain states on a probation or parole violation, or sentenced for a misdemeanor, are eligible to vote while in jail. Yet even when the law permits certain individuals to vote while incarcerated, many remain unable to vote because of obstacles to electoral participation, including lack of polling places and an inability to register to vote. People in jail are also often reluctant to exercise the franchise due to fear and lack of awareness.

Democracy advocates and stakeholders must include incarcerated voters in their democracy initiatives to improve voting in jail practices. With the end of felony disenfranchisement in Washington, DC in 2020²⁶ and the introduction of similar measures to expand voting to all persons with felony convictions in other states, building the infrastructure for democratic participation in local jails not only expands voter access to strengthen our democracy, it can also help guarantee ballot access for all incarcerated citizens in the United States.

Endnotes

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This briefing paper was written by Durrel Douglas, Jail-Based Voting Initiative Organizer at The Sentencing Project.
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The Sentencing Project promotes effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice.