



**Statement of Marc Mauer
Executive Director
The Sentencing Project**

**Prepared for the House Judiciary Committee
Subcommittee on the Constitution, Civil Rights
and Civil Liberties**

**Hearing on H.R. 3335
“The Democracy Restoration Act of 2009”**

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I am writing to express the strong support of The Sentencing Project for H.R. 3335, the “Democracy Restoration Act of 2009.” The legislation, introduced by Judiciary Chairman John Conyers, would ensure federal voting eligibility for persons with felony convictions who are not incarcerated. I commend Chairman Nadler and the U.S. House Judiciary Committee, Subcommittee on the Constitution, Civil Rights and Civil Liberties for holding today’s hearing on this important legislation.

I am Marc Mauer, Executive Director of The Sentencing Project, a national non-profit organization engaged in research and advocacy on criminal and juvenile justice policy issues. In regard to the issue of felony disenfranchisement, I am the co-author of a 1998 study that provided the first state-based estimates of the impact of disenfranchisement and I have written articles for a wide variety of publications, including those of the American Bar Association and the U.S. Commission on Civil Rights. I have also testified on this issue before the U.S. House of Representatives and the Maryland legislature.

In this testimony I will present a brief overview of the national scale of this problem and recent legislative developments, followed by a rationale for why I believe this legislation would establish a more fair and effective policy for the nation.

NATIONAL OVERVIEW

There are currently over five million Americans who are not eligible to vote as a result of a felony conviction. While disenfranchisement policies have been in place for many years, the number of persons subject to these provisions has increased dramatically, along with the escalation of the criminal justice system in recent decades. Notably, three-quarters of the disenfranchised population are not incarcerated; they are persons under probation or parole supervision, or persons who have completed a felony sentence but are still disenfranchised due to their state laws.

During the Jim Crow era, disenfranchisement laws in southern states were revised to silence the political voice of newly emancipated slaves. Today, the racial disparities in the criminal justice system translate into higher rates of disenfranchisement in communities of color, resulting in one of every eight adult black males being ineligible to vote. Disproportionate disenfranchisement in communities of color means the concerns of those communities are not fairly represented at the polls.

In recent years there has been a great deal of legislative activity around the nation in regard to disenfranchisement policies. This has come about as the public and policymakers have become aware of the broad impact of these practices, leading to a reconsideration of the wisdom of policies. As a result of these reforms, at least 760,000 persons have regained the right to vote.

The current momentum for disenfranchisement reform began 13 years ago when the Texas legislature and then-Governor George W. Bush repealed a two-year waiting period required for vote restoration after completion of sentence. The change restored rights to an estimated 317,000 people. Since 1997, 21 states have amended felony disenfranchisement policies in an effort to reduce their restrictiveness and expand voter eligibility. These have included nine states that either repealed or amended lifetime disenfranchisement laws, two states that expanded voting rights to persons under community supervisions and five states that eased the restoration

process for persons seeking to have their right to vote restored after completing their sentence.

No Penological Justification for Disenfranchising People on Probation and Parole

Persons living in the community under probation or parole supervision have been determined by judges or corrections officials to not require incarceration for the safety of the community. Further, these persons are presumed to have the same rights and responsibilities as other citizens, except for supervision and reporting requirements imposed by corrections agencies. Persons on probation, for example, can get married or divorced, write a letter to the editor, or participate in their child's PTA organization. It is in the community's interest to encourage these activities, because to the degree that persons under supervision maintain positive connections with the community they will be more likely to engage in pro-social behavior. Rather than sending a message of second-class citizenship through denial of voting rights, it would be far better to provide incentives for first-class citizenship, with all the rights and obligations that it entails.

A study by sociologists Christopher Uggen and Jeff Manza found "consistent differences between voters and non-voters in rates of subsequent arrest, incarceration, and self-reported criminal behavior." For persons with a prior arrest, 27% of non-voters were re-arrested over a three-year period, compared with only 12% of voters. Indeed, in recent years a growing chorus of law enforcement officials and organizations, including police chiefs, corrections officials, and prosecutors, have called for the restoration of voting rights to people released from prison because it aids efforts for successful reintegration.

Standardizing Federal Voter Qualifications will Create a Fairer Election Process

Voting policies vary widely across the country. The current patchwork of disenfranchisement laws means that a person's right to vote in federal elections is determined by where he or she resides. For example, in West Virginia a person who has completed his or her sentence for a felony conviction can vote for President, but in Virginia someone convicted of the same offense is barred for life from voting. State laws range between never losing the right to vote because of a felony conviction to permanently ending voting rights upon conviction. The Democracy Restoration Act would standardize the federal electoral system, but not apply to state elections; therefore, it would not infringe on a state's right to regulate state elections.

CONCLUSION

I hope Congress can join the growing movement for reform of disenfranchisement policies. When people leave prison and seek to participate in their community, they deserve a second chance to work, raise families, participate in community life, and vote. The current patchwork of voting laws across the country means that a person's right to vote in federal elections is determined simply by where he or she chooses to call home. Congress must take action to fix this problem. Such a change would aid persons returning to the community from incarceration, as well provide public safety benefits for all citizens.

I appreciate your consideration of these remarks and would be pleased to work with the Committee if I can be of any further assistance.



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