

How Often Do People Vote While Incarcerated? Evidence from Maine and Vermont

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Recent debates about enfranchising incarcerated people raise the question of how many additional votes such policies would generate. Existing research finds very low voter participation among previously incarcerated people, but it remains unclear how often people might vote from prison if given the opportunity. We use data from states that allow people to vote while incarcerated for felony crimes, to address this question. We merge prison records with the voter file to estimate how many currently incarcerated people are registered and voted in recent elections. Estimates suggest very few (under one in 10) eligible incarcerated voters in Vermont and Maine voted in the 2018 election. Given the winning margins in other states' recent elections, these estimates suggest that enfranchising currently incarcerated people would likely not have changed these statewide election outcomes. We conclude that debates about enfranchisement should focus less on anticipated electoral effects and more on normative issues.

Bernie Sanders recently touched off a national debate about voting rights when he said that people incarcerated for felonies should retain the right to vote. Other Democratic presidential candidates weighed in on the issue, and a wave of op-eds and press releases followed (Ember and Stevens 2019). Meanwhile, at least four state legislatures recently considered bills that would have allowed people to vote while incarcerated for a felony (French 2019).

How would US elections change if more states allowed people to vote while serving felony time? It would depend on how many people used their new voting rights. Table 1 presents a counterfactual exercise that imagines what could have happened in the 2018 elections if the 17 states that currently prevent voting from prison (but restore voting rights upon release) had enfranchised all incarcerated people before the election.¹ The first few columns present the actual number of votes cast in

each state in 2018 and the observed turnout rate among eligible voters statewide. The “Tightest Margin” column shows the narrowest winning margin for a statewide candidate in 2018: this is the smallest number of additional votes that could have changed the outcome of an election. In Nevada, for example, a closely contested race for attorney general was determined by fewer than 5,000 votes.

The last few columns of the table consider the possible electoral effects of reenfranchisement. The “Incarcerated” column estimates how many people in the state would have been reenfranchised by a change that allowed people to vote while incarcerated for felonies. The final column, labeled “% Turnout to Swing,” calculates the rate at which those hypothetically enfranchised people would have had to vote to change the outcome of the closest election in that state, all else equal. Rather than making assumptions about the partisanship or candidate

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1. We focus on these states because the counterfactual is simpler here than in states that continue to disenfranchise people after release. All states, as well as calculation details, appear in app. sec. 1 (the appendix is available online). All analyses in this article focus on people serving felony sentences whether in prison or in jail, although we sometimes use shorthand like “imprisoned.”

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Table 1. 2018 State-Level Elections Counterfactual Exercise

State	Votes Cast	% Turnout	Tightest Margin	Incarcerated	% Turnout to Swing
Colorado	2,583,580	63	160,707	18,576	938
Hawaii	398,657	39	113,215	5,474	2,121
Illinois	4,635,541	51	544,184	42,017	1,346
Indiana	2,308,258	47	134,447	24,948	551
Maryland	2,335,128	54	273,005	19,382	1,455
Massachusetts	2,752,665	55	654,161	8,780	8,090
Michigan	4,341,340	58	115,000	40,502	288
Montana	509,213	62	17,913	3,795	474
Nevada	975,980	48	4,533	13,742	36
New Hampshire	580,568	55	40,405	2,818	1,477
New Jersey	3,248,642	53	354,299	18,504	2,050
North Dakota	330,598	59	24,800	1,791	1,416
Ohio	4,496,834	51	146,565	51,666	286
Oregon	1,914,923	62	119,510	15,166	876
Pennsylvania	5,020,000	51	642,832	48,098	1,397
Rhode Island	381,267	48	58,190	3,038	2,062
Utah	1,082,972	52	336,674	5,846	6,199

preferences of incarcerated people, we calculate the absolute minimum turnout rate that could swing an election if all new voters supported the losing candidate.

In most of these states, even 100% turnout by incarcerated people in support of a given candidate would not have changed the electoral outcome. In Massachusetts, for example, it would have taken a bloc of new voters over 80 times the size of the state's (felony) incarcerated population to change any state-wide election results. Even in tightly contested Nevada, at least 36% of newly eligible incarcerated people would have had to vote for the same candidate in order to have a chance at changing the outcome of the Senate election.

Should we expect that 36% of incarcerated voters would turn out if given the opportunity? There is limited evidence available to answer such a question, since nearly all states currently disenfranchise people while they are incarcerated for felonies. But there are two sets of people whose political behavior might be informative.

First, we might look to participation by previously incarcerated people. Studies of people who have regained their right to vote after incarceration find that they participate at much lower rates than other voters (Burch 2011; Weaver and Lerman 2010). However, it is not clear that regaining the franchise in a state with a felony disenfranchisement law is the same experience as retaining the right to vote while incarcerated. Most people included in previous studies spent some time ineligible to vote (while incarcerated and potentially longer depending on state

law) and may have been purged from the voter rolls.² It is hard to say how they might have acted if they had never been disenfranchised at all or whether they would have taken the opportunity to vote while incarcerated. Incarcerated people might vote at higher rates than recently released people because they would be more likely to come in contact with volunteers and information about how to vote or because they would still be registered to vote and thus would face fewer barriers than people who needed to reregister. Alternatively, they might be less likely to vote because of the practical challenges of casting a ballot from behind bars or because of skepticism about the legality or the value of voting.

A second approach would be to ask how often people given the chance to vote while incarcerated do so. Two US states, Maine and Vermont, allow all people serving time for felony convictions to vote. In this research note, we explore the recent voting participation of people incarcerated in these states. We merge together administrative data—prison records, as well as state voter files—to find estimates of the share of currently incarcerated people who are registered to vote and have voted in recent elections. We estimate that about one-third of people serving felony time in Vermont are registered to vote and that about 8% of incarcerated people voted in the 2018 general

2. For one exception to this rule, see Meredith and Morse's (2015) examination of voting by people with previous convictions in Maine, discussed in more detail in the Estimates section below.

election. Turnout in Maine is even lower. We also see that people incarcerated in Maine vote at rates similar to those recently released, suggesting a possible bridge from previous state-specific studies to the counterfactual of removing felony disenfranchisement laws (without simply assuming estimates from Maine and Vermont are applicable to very different states).

Our estimates suggest that if other states were to reenfranchise people while incarcerated, this change would yield relatively few new votes, and this additional participation would be unlikely to change state-level election results in the states examined. Recent debates about reenfranchisement have highlighted both moral aspects and supposed electoral effects of such changes, with advocates on both sides anticipating that it could change election outcomes (and often benefit Democrats). Opposing one such recent proposal, a state assemblyman described his perception of “a pattern nationwide where Democrats are working to try to get as many felons, as many criminals on the voting rolls as possible” (McGreevy 2016). Our findings suggest that these partisan fears (or hopes) have been overstated and that these debates should focus more on the normative arguments for or against enfranchisement.

VOTING IN VERMONT AND MAINE

Vermont and Maine are alone among US states in fully maintaining the right to vote while people serve felony sentences. All other states disenfranchise most people while they are imprisoned; some also restrict voting postrelease (Sentencing Project 2019).

Vermont

In Vermont, people in prison are allowed to register to vote (or remain registered) at their preincarceration address. They can then request absentee ballots by mail while they are incarcerated. The right to vote while incarcerated is not only recognized by state politicians but is actively enforced by Vermont prison officials.³ Local voting groups also enter facilities to register people and help them request absentee ballots (Davis 2018).

We estimate registration and voting rates among incarcerated people in Vermont by merging together several forms of administrative data. We begin with a “census” of people held in Department of Corrections custody on felony sentences.⁴ This

data set contains the names and ages of 993 people incarcerated as of February 2019. It does not indicate when people entered the facility, so we supplement it with information from Vermont’s Offender Locator website, which gives an arrest date for nearly everyone in the data set.

We then merge this census data set with the Vermont voter file, which contains information on the names, addresses, birth years, and vote histories of all registered voters.⁵ These are difficult data sets to link together: there are many common names in both data sets that produce many duplicate potential matches. Ideally, we would use additional identifying information such as dates of birth to narrow down potential matches, but we have only ages/years of birth (Ansolabehere and Hersh 2017).

In the appendix, we describe in detail our merge approach for Vermont. Briefly, we identify potential matches on the basis of last name matches, consistent ages, and string distances between first names, and then we hand validate potential matches by visually inspecting them and conducting web searches to find additional information to confirm or rule out the match. This approach yields 657 potential matches to be hand validated, of which we find that 303 are nonmatches, 349 are accurate matches, and 3 contain too little personal information to be sure that the registered voter was the same person as was incarcerated. We calculate turnout rates for incarcerated people under two different assumptions, one considering these “uncertain” matches as matches and another considering them nonmatches.

Maine

Maine, like Vermont, allows people to register to vote (or remain registered) at the place they lived before they were incarcerated. They can then request absentee ballots to vote from behind bars.

In Maine, we take a different approach to measuring registration and turnout. We again begin with administrative data on incarcerated people: names and exact dates of birth of the 2,097 people who were serving felony sentences as of the 2018 election, provided by the Maine Department of Corrections. We contracted with Catalist, a data vendor specializing in voter records and probabilistic list matching, to find voter records belonging to these incarcerated people. In Maine, we also collected data on a group of 1,694 people who had been recently (in 2016 or 2017) released from state custody and collected information on their registration and recent vote history as well.

3. From a 2018 news article: “Chris Barton, restorative systems administrator at the Vermont Department of Corrections, said prison staff inform inmates of their right to vote 90 days before all elections. The prison posts inmate voter guides in the library that include details on how to register, request an absentee ballot and return it on time” (Timm 2018).

4. This file was provided by the Vermont Department of Corrections on February 27, 2019.

5. The voter file was requested from the Vermont secretary of state and is a snapshot as of March 1, 2019.

ESTIMATES

Vermont estimates

Our merge approach results in a data set containing 993 people who were serving felony sentences as of February 2019; we believe that 969 of these people were incarcerated by the 2018 general election, and 697 of them were incarcerated by the 2016 general election.⁶ Of the people incarcerated during the 2018 election, our records indicate that 79 to 80 of them voted in the 2018 election, depending on our assumptions about uncertain matches to the voter file.⁷ This is a turnout rate of about 8%. Of the 697 people we observe who were incarcerated as of the 2016 general election, 92 of them voted in the presidential election, for a turnout rate of about 13%.⁸ These are low rates of participation in a high-turnout state—over 55% of eligible Vermont voters turned out in 2018, and 2016 turnout was 65%—and are low even relative to typical turnout rates among people with low incomes and few years of formal education.

Maine estimates

As discussed above, we used a different process to find registration and vote histories in Maine. Nonetheless, our estimates here are similar to those from Vermont: of the 2,097 people in state custody as of the 2018 election, 706 (34%) appear to be registered to vote. Only 119 people (under 6%) are recorded as having voted in 2018.

In Maine, we also have data from recently released people for comparison; people released from prison in 2016 or 2017 are registered at similar rates (35%) to those still incarcerated, and they voted at similarly low rates in 2018 (5.5%). These estimates are consistent with Meredith and Morse's (2015) previous finding that about 12% of recently released Mainers voted in the 2012 presidential election. It appears that, at least in Maine, the behavior of recently released people is a good predictor of incarcerated people's voter participation.

Accordingly, we might look to other states' recently released populations for a guess at how often incarcerated people would vote there.⁹ Previous studies of recently released people in Connecticut, Iowa, New York, North Ca-

rolina, Pennsylvania, and Rhode Island have all found low turnout rates, ranging from 5% to 18% depending on the state, year, and specific population included (Gerber et al. 2017; Haselswerdt 2009; Meredith and Morse 2015).

Thinking back to table 1's counterfactual voting exercise, it seems unlikely that people imprisoned in other states would vote at high rates. Whether we use participation rates among incarcerated people in Vermont and Maine as a guide or take from Maine the lesson that we can instead rely on the participation of recently released people in each state, it appears that we should expect fewer than one in five incarcerated people to vote even in high-turnout elections. Combined with recent evidence on the political heterogeneity of incarcerated people and thus the implausibility of their forming a unified voting bloc, these results suggest it is unlikely that a substantial fraction of incarcerated people would vote in ways that could swing a statewide election, even a fairly close one (Lewis, Shen, and Flagg 2020).¹⁰

Is it possible that reenfranchisement could have other equilibrium effects that we have not considered? Yes, although we think it is unlikely at present that actors like political campaigns would invest substantial resources in mobilizing incarcerated people. Even in very high-incarceration states, people in prison represent a small fraction of all eligible voters, and mobilizing them carries logistical challenges, uncertain partisan implications, and stigma. We have imagined here a world in which only felony disenfranchisement laws change; we believe it would take additional social and policy changes to get to a world where incarcerated people are more meaningfully incorporated into political life.

CONCLUSION

We follow previous research that has sought to estimate the potential electoral effects of changing felony disenfranchisement laws (Burch 2011; Klumpp, Mialon, and Williams 2019; Miles 2004). Our findings suggest that if states allowed people to vote while incarcerated for felonies, this change would result in relatively few additional votes.

This conclusion—that from-prison voter turnout is low even in Vermont and Maine and would be unlikely to affect state elections elsewhere—does not imply that we think states should avoid such policies. Rather, we suggest that policy makers should consider moral arguments rather than casual predictions about how these laws might change elections.

6. We know the date of arrest that led to the current stint of incarceration, but cannot be sure they were sentenced by election day. See the appendix for an alternative approach.

7. About one-third of the incarcerated people in our data set appear to be registered to vote. See the appendix for more discussion of how we validated matches, consideration of the possibility that some people are ineligible to vote for other reasons, and analyses indicating that voters and nonvoters look similar in terms of age, gender, and race.

8. We encourage readers to interpret 2016 estimates with caution, as they rely on a set of people incarcerated as of the 2016 election but also still incarcerated in early 2019.

9. Appendix sec. 3 discusses some assumptions underlying this approach.

10. We have focused on statewide elections given the difficulty of assigning people to smaller districts to consider local effects. Although local elections are usually low-turnout affairs, we cannot rule out the possibility that a high-profile election for an office like prosecutor or mayor could attract attention and participation from incarcerated voters.

People have made moral claims both for and against reenfranchising people with felony convictions, highlighting ideas about paying one's debt to society, the racist history of disfranchisement laws, and the meaning of citizenship. Our findings suggest that such normative debates are at least as relevant as the possibility of imprisoned voters changing election outcomes.

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