

**Testimony of
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**Before
The Nevada State Senate
Legislative Operations and Elections Committee
May 12, 2011**

Introduction

Good afternoon. My name is Lee Rowland and I am Counsel in the Democracy Program at the Brennan Center for Justice at NYU School of Law. I would like to thank the Committee for holding this hearing and inviting me to testify.

The Brennan Center for Justice is a non-partisan public policy and law institute that focuses on fundamental issues of democracy and justice. As part of our mission to advance voting rights for all Americans, we lead a national campaign to restore the vote to people with criminal convictions. Today my testimony will focus on Assembly Bill 301 which seeks to restore voting rights to people who have successfully completed their sentences.

Voting is both a fundamental right and a civic duty. However, disenfranchisement after criminal conviction remains the most significant barrier to voting rights. Nationally, 5.3 million American citizens are not allowed to vote because of a criminal conviction – 4 million of whom live, work, and raise families in our communities.¹ Nevada's disenfranchisement law is one of the most restrictive in the country. Under the current law, more than 40,000 Nevadans are unable to cast a vote due to a past criminal conviction, half of whom have completed their full sentences and are living in the community.² Nearly a third of these disenfranchised individuals are African-American.³

There has been a national recognition that harsh criminal disenfranchisement laws are at odds with the goal of public safety. Indeed, the American Probation and Parole Association

¹ Jeff Manza & Christopher Uggen, *Locked Out: Felon Disenfranchisement and American Democracy* 249 (2006); See also The Sentencing Project, 2009 data available at <http://sentencingproject.org/map/statedata.cfm?abbrev=NV&mapdata=true>.

² Manza, *supra* note 1.

³ *Id.*

(APPA), whose members supervise more than 5 million Americans leaving prison and rejoining the community, has written in strong support of A.B. 301. As the APPA explains: “There is no credible evidence that continuing to disenfranchise people after they have paid their debt to society serves any legitimate law enforcement purpose.” Since 1997, 19 states have changed their laws to restore voting rights or eased the restoration process.⁴ These changes have occurred under both Republican and Democratic governors.

Assembly Bill 301 gives Nevada an opportunity to join the groundswell of states that are simplifying and expanding access to the franchise. The bill will automatically restore voting rights to individuals immediately after their successful completion of any felony sentence of prison, probation, or parole. As described in more detail below, A.B. 301 will encourage successful reentry of individuals living in our communities, enhance public safety, decrease administrative burdens on election officials, and correct a longstanding barrier to civil rights that carries deep racial overtones. Passage of A.B. 301 is not only the morally right course of action; it has numerous practical benefits for the state of Nevada and its citizens. A.B. 301 will have no fiscal impact.

A.B. 301 will encourage successful reentry.

Law enforcement officials and criminal justice experts across the nation, including the American Correctional Association, American Probation and Parole Association, Association of Paroling Authorities International, and the National Black Police Association, agree that restoring the right to vote after completion of a sentence builds community ties, reduces recidivism, and protects public safety.⁵ These renowned organizations view civic engagement, including voting, as a crucial tool in preventing recidivism. A.B. 301 would restore the right to vote for tens of thousands of Nevadans who currently work and live in our communities but lack a full voice in their democracy.

A critical element of protecting public safety is successful reintegration of former offenders back into their communities, and barriers to civic engagement are barriers to reintegration. As Leonard Marks, a retired Brooklyn Bureau Chief in the New York State Division of Parole, has stated:

“One of the greatest challenges facing those who are coming out of prison is the transition from the focus on one’s self as an individual that is central to the prison experience, to a focus on one’s self as a member of a community that is the reality of life in our democratic society. Having the right to vote and learning how to exercise that right

⁴ See Ryan S. King, The Sentencing Project, *Expanding the Right to Vote: State Felony Disenfranchisement Reform, 1997-2008* (Sept. 2008), available at

http://www.sentencingproject.org/Admin/Documents/publications/fd_statedisenfranchisement.pdf.

⁵ Press Release, Restoration of Voting Rights, American Correctional Association (Jan. 24, 2001) (on file with author); Press Release, Resolution Supporting Restoration of Voting Rights Released, American Probation and Parole Association (Oct. 17, 2007) (on file with author); Press Release, Resolution on Restoring Voting Rights, Association of Paroling Authorities International (Apr. 30, 2008) (on file with author); Press Release, National Black Police Association Resolution of Restoring Voting Rights, National Black Police Association, Inc. (June 2008) (on file with author).

gives one a voice and a stake in the community; it promotes positive behavior and serves as a powerful conduit for making the transition from criminal to becoming a law abiding member of the community.”⁶

Encouraging people to exercise their right to vote gives them a voice and a stake in their communities. It also promotes positive behavior and serves as a powerful conduit for making the transition from being in the criminal justice system to becoming a law abiding member of the community. Someone who has a stake in the community, who sees himself as a member of that community, is less likely to offend against that community. Additionally, barring people from the political process hinders effective policing by undermining the ability for police to build strong community partnerships.

A.B. 301 presents an opportunity for Nevada to show it is serious about preventing recidivism by adopting the best practices endorsed by corrections and parole experts. Automatically restoring the right to vote to those with criminal convictions truly gives them a second chance to be welcomed back into our communities, and a reason to stay in them for life. Simply put, restoring civil rights protects public safety.

A. B. 301 will save government resources.

A.B. 301 will simplify Nevada’s laws governing the restoration of civil rights, which are currently among the most complex in the nation. These laws are difficult to navigate for both election officials and individuals with criminal histories. A.B. 301 would simplify Nevada’s rules for restoring the right to vote after a criminal conviction and eliminate the current, onerous requirements placed on county clerks.

By eliminating the requirement that only registrants with past criminal convictions provide proof of voter eligibility, this bill will reduce the burden currently placed on registrars as *de facto* criminal investigators. It will also remove the Catch-22 placed on those with out-of-state convictions who are unable to obtain documents required by current Nevada law, but which simply do not exist in their state of conviction. Nevada stands alone in enforcing requirements that frequently cannot be met by people with out of state convictions. While the current laws expressly grant voting rights to individuals with criminal convictions from another state, the practical differences among the states’ disenfranchisement laws make the application of Nevada’s restoration laws at times unworkable. No eligible voter should be prevented from casting a ballot because of burdensome requirements that cannot be met, even as the policy of the state supports that right.

Strikingly, a recent survey completed by the ACLU of Nevada⁷ indicates widespread confusion among election employees about the proper procedures for rights restoration. Many election employees gave incomplete, inaccurate, and inconsistent responses to basic questions

⁶ Testimony of Leonard Marks, Retired Brooklyn Bureau Chief, New York State Division of Parole, Before the New York State Senate Elections Committee, April 24, 2009.

⁷ ACLU of Nevada, *Voting with a Criminal Conviction in Nevada: Administrative Problems and the Need for Reform* (March 2011).

about the requirements of the rights restoration process. The laws are difficult for even a lawyer to discern; it is simply unfair to place this complex burden at the feet of election employees who are charged with registering voters. This confusion leads to one of two things: eligible voters chilled from casting a lawful vote, or ineligible voters intentionally – or unintentionally – casting a ballot. Both are terrible outcomes for our democracy. Bringing clarity to the laws will help ensure that all – and only – eligible voters can vote.

Allowing people to vote as soon as they have successfully completed a felony sentence simplifies election administration – if they are not under a current felony sentence, they are eligible to vote. There is no longer any need to coordinate complicated data matches, administer convoluted eligibility requirements, or sort through restoration applications. The policy saves the state valuable time, energy and resources, and avoids the potential for burdensome lawsuits by those wrongfully denied a vote. Adoption of A.B. 301 will benefit not only individuals currently prevented from voting by Nevada’s byzantine laws, it will also ease the difficulty of election administration for the counties.

A.B. 301 will help correct racial discrimination.

Felony disenfranchisement laws in the United States are deeply rooted in the troubled history of American race relations, and the disproportionate racial impact of these laws continues to be reflected today. In 1870 the Fifteenth Amendment enfranchised African-American men, but grandfather clauses, literacy tests, and poll taxes still barred most freedmen from the voting booth. Many state disenfranchisement laws were designed as ways to further dilute the voting power of African-Americans. By restoring voting rights immediately after the completion of any felony sentence, A.B. 301 would help to reduce the impact of historically racially prejudiced disenfranchisement laws.

The most comprehensive study of Nevada’s disenfranchised population occurred in 2009, and found 43,594 people disfranchised in the state or about 2.6% of Nevada’s population. Tens of thousands of those individuals – about half – had fully paid their debts to society and were living and working in their Nevada communities. **Of the total disfranchised population, 12,632 (or 29%) are African-American, making the state’s African-American disfranchisement rate a whopping 12.4%, almost 5 times the statewide disfranchisement rate.**⁸ The disparate racial impact of Nevada’s disenfranchisement law is stark. Restoring the right to vote to tens of thousands of these individuals can begin to reverse this racial injustice.

Conclusion

The right to vote forms the core of American democracy. Our history is marked by successful struggles to expand the franchise, to include those previously barred from the electorate because of race, class, or gender. As a result, our democracy is richer, more diverse, and more

⁸ The Sentencing Project, 2009 data *available at* <http://sentencingproject.org/map/statedata.cfm?abbrev=NV&mapdata=true>.

representative of the people than ever before. However, felony disenfranchisement represents one of the last remaining barriers between citizens and the ballot box. Passing A.B. 301 is a step in the right direction for voting rights, public safety, and racial justice. We urge your support for this bill.

Please do not hesitate to contact me at any time if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Rowland". The signature is fluid and cursive, with the first name "Lee" being more prominent and the last name "Rowland" following in a similar style.

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