



American Probation and Parole Association

A Force for Positive
CHANGE.

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Senator Joan Carter Conway
Chair, Education, Health, and Environmental Affairs
2 West, Miller Senate Building
Annapolis, MD 21401

Dear Senator Conway and Members of the Committee:

On behalf of the American Probation and Parole Association (APPA), I write in support of Senate Bill 340. This legislation would restore the right to vote to nearly 40,000 Marylanders who have a criminal conviction in their past, but who are out of prison and living in the community, including those on probation and parole.¹ Because I believe that voting plays an integral role in the successful reentry of people coming out of prison and trying to reclaim their lives, I urge you to pass Senate Bill 340.

I have been the Executive Director of the American Probation and Parole Association since 1996. I have over 40 years of experience in the corrections and human services field, including serving as Director of Probation and Parole as well as managing several community-based, private sector programs for offenders and at-risk youth in Minnesota. I am the immediate past Vice Chair of the United States Department of Justice Global Justice Information Sharing Initiative Advisory Committee, the Vice Chair of Corrections Operations Subcommittee for the National Law Enforcement and Corrections Technology Advisory Committee, and serve on the FBI Criminal Justice Information Services Advisory Policy Board and the National Governors Association Intergovernmental Justice Working Group, among others. I have been awarded the Florida Association of Community Corrections Lifetime Achievement Award, the first U.S. Congress Crime Victims' Rights Caucus Allied Professional Award, the Justice Leadership Award from Family Justice and a Leadership Award from the US Department of Justice.

The APPA represents over 40,000 individuals in the field of pretrial, probation, parole and community corrections. We have members in every state and affiliate members worldwide.² Collectively, our members supervise more than 5 million adults across the United States.

At the APPA, we work to build a fair, just and safe society where community partnerships create a balance of prevention, intervention and advocacy. We seek to create a system of community justice where a full range of sanctions and services protects

¹ Maryland, THE SENTENCING PROJECT,
<http://www.sentencingproject.org/map/statedata.cfm?abbrev=MD&mapdata=true>.

² A full list of APPA affiliates is available at https://www.appa-net.org/cweb/docs/APPA/bod/Affiliate_Reps.pdf.

public safety by insuring humane, effective, and individualized sentences for offenders, and support and protection for crime victims.

Restoring the right to vote to people who are living and working in the community is central to this core mission. For this reason, the APPA has been part of the national efforts to restore voting rights to people with criminal convictions. In 2007, we passed a resolution calling for the restoration of voting rights to people under supervision as well as those who have served their sentences.³ I currently sit on the Brennan Center for Justice Law Enforcement & Criminal Justice Advisory Council, comprised of police chiefs, corrections professionals and prosecutors; the main purpose of the Council is to advocate for voting rights restoration at both the federal and state level.⁴ We have joined dozens of other law enforcement and criminal justice professionals and organizations in signing a letter supporting the Democracy Restoration Act, a federal bill that would restore voting rights in federal elections to the 4.4 million Americans who have been released from prison and are living in the community.⁵ And APPA members have encouraged voting rights legislation in a number of states, including Kentucky, Minnesota, New York, Washington and Wisconsin.

We support Senate Bill 340 because we believe that civic participation is integral to successful rehabilitation and reintegration.

Restoring Voting Rights Facilitates Successful Rehabilitation and Reintegration

One of the core missions of parole and probation supervision is to support the successful transition from prison and jail to the community. Civic participation is an integral part of this transition because it helps transform one's identity from deviant to law-abiding citizen. For this reason, Senate Bill 340 is an indispensable part of the reentry process. It will help to fully reintegrate the almost 40,000 Marylanders⁶ who are already living in the community. The bill's designation of the Department of Public Safety and Correctional Services (DPSCS) as a voter registration agency is also necessary. It is vital that upon an individual's discharge from a correctional facility he or she is given information about voting rights and offered assistance with registration, as this bill requires. These responsibilities would not create an undue burden on DPSCS – indeed, I can say as an experienced corrections professional that they are central to our mission.

The United States is the world's leader in incarceration, with 2.1 million people currently in our prisons — a 500% increase over the past thirty years.⁷ Each year, over 600,000 people leave prison. Approximately two out of every three people released from prison in the United States are re-arrested within three years of their release.⁸ The combination of the sheer number of people being released from

³ See American Probation and Parole Association, Resolution, Restoration of Voting Rights(2007), https://www.appa-net.org/eweb/Dynamicpage.aspx?site=APPA_2&webcode=IB_Resolution&wps_key=3c8f5612-9e1c-4f60-8e8b-1bf46c00138e.

⁴ To read more about the Brennan Center Law Enforcement & Criminal Justice Advisory Council, visit <https://www.brennancenter.org/analysis/about-law-enforcement-criminal-justice-advisory-council>.

⁵ For more information on the Democracy Restoration Act, see <https://www.brennancenter.org/legislation/democracy-restoration-act>.

⁶ Maryland, *supra* note 1.

⁷ THE PEW CENTER ON THE STATES, ONE IN 31, THE LONG REACH OF AMERICAN CORRECTIONS (Mar. 2009), available at <http://www.pewtrusts.org/en/research-and-analysis/reports/0001/01/01/one-in-31>; see also MARC MAUER, RACE TO INCARCERATE 1.

⁸ RE-ENTRY POLICY COUNCIL, CHARTING THE SAFE & SUCCESSFUL RETURN OF PRISONERS TO THE COMMUNITY 3 (2005), available at <http://csgjusticecenter.org/reentry/publications/the-report-of-the-re-entry-policy-council-charting-the-safe-and-successful-return-of-prisoners-to->

prison every day, and the "revolving door" created by these staggering recidivism rates have forced all of us in the community supervision field to look carefully at the process of reentry — the transition from prison to community — and find innovative ways to ease this reintegration with the ultimate goal of preventing future crime and protecting public safety.

The APPA believes that full civic participation and successful rehabilitation are intuitively linked. One of the greatest challenges facing those who are coming out of prison or jail is the transition from a focus on one's self as an individual that is central to the incarceration experience, to a focus on one's self as a member of a community that is the reality of life in our democratic society. While having strong family support and stable employment are critical to a person's successful transformation from prisoner to citizen, research has determined that one's identity as a responsible citizen — including volunteer work, community involvement *and voting* — plays a vital role.⁹ Further, having the right to vote and learning how to exercise that right sends a message that these individuals are welcomed back as integral and valuable members of their home communities.

Civic participation has also been linked to reducing recidivism. While measuring a direct causal relationship between voting rights and criminal behavior is difficult, one study tracking the relationship between voting and recidivism found "consistent differences between voters and non-voters in rates of subsequent arrests, incarceration, and self-reported criminal behavior."¹⁰ In fact, the study found that former offenders who voted were half as likely to be re-arrested as those who did not.¹¹ The study reaffirms that voting is part of a package of pro-social behavior that is linked to desistance from crime. Someone who has a stake in the community, who sees himself or herself as a member of that community, is less likely to offend that community.

Disenfranchisement Serves No Legitimate Law Enforcement Purpose

Moreover, there is no credible evidence showing that continuing to disenfranchise people who have rejoined the community serves any legitimate law enforcement purpose.

Criminal justice experts typically point to four accepted purposes of criminal penalties: prevention against committing new crimes, deterrence, retribution and rehabilitation.¹² I have already explained that denying the right to vote hinders, rather than fosters, successful rehabilitation. And indeed, disenfranchising individuals after release from prison furthers none of these goals.

Prevention

The prevention, or incapacitation, rationale for punishment is that a person who has committed a crime is likely to do so again and that punishment is therefore necessary to prevent him from breaking the law again. Typically this punishment takes the form of physically incarcerating the individual. As applied to disenfranchisement schemes, however, the prevention justification is unpersuasive.¹³ States are hard

the-community/.

⁹ Christy A. Visser & Jeremy Travis, *Transition from Prison to Community: Understanding Individual Pathways*, 29 ANN. REV. SOC. 89, 97 (2003).

¹⁰ Christopher Uggen & Jeff Manza, *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*, 36 COLUM. HUM. RTS. L. REV. 193, 213 (2004).

¹¹ *Id.* at 205. The survey was based on longitudinal survey data from a general sample people with felony convictions in St. Paul, Minnesota of the effects of voting participation upon self-reported crime and arrest in the years 1997 to 2000.

¹² See Howard Itzkowitz & Lauren Oldak, Note, *Restoring the Ex-Offender's Right to Vote: Background and Developments*, 11 AM. CRIM. L. REV. 721, 730-731 (1973).

¹³ See Pamela S. Karlan, *Convictions and Doubts: Retribution, Representation, and the Debate*

pressed to identify evidence that people with felony convictions are prone to commit offences affecting the integrity of elections, and there is no evidence that people on probation and parole have a higher propensity for voter fraud in the states where they are entitled to vote.¹⁴

Deterrence

Similarly, there is no basis for concluding that continuing to disenfranchise people, who have rejoined the community deters them from committing new crimes. Deterrence flows from the other penal consequences of a felony conviction, namely a term of incarceration and significant fines. It is unlikely that a person who is not dissuaded by the prospect of a prison sentence will be deterred by the threat of losing his right to vote.¹⁵

Retribution

The law enforcement community and society at large now recognize that a punishment can be morally justified as retribution only if it is proportionate in severity and duration to the crime in question. Blanket disenfranchisement for everyone with a felony conviction is unjustifiably broad. At the same time, the severity of disenfranchisement is undeniable.¹⁶ Laws mandating the denial of voting rights to a person convicted of a felony destroy that citizen's most direct form of participation in the central process of self-government and render him invisible to elected officials. The weakness of the retribution justification is especially poignant for those who may have a reduced sentence, are under court or community supervision, or may have already served their criminal sentences and are seeking to reintegrate into society. To deny them the most basic of rights – the right to vote – is to disregard the assessment of the sentencing judge or jury and the corrections officials who, after review of each individual's circumstance, deemed them fit to reenter society.

Restoring Voting Rights Has Broad Support in the Law Enforcement & Criminal Justice Field

The APPA is not alone in its support for restoring the right to vote. Other national criminal justice and law enforcement agencies, including the National Black Police Association and the Association of Paroling Authorities International, have passed resolutions in favor of restoring voting rights to people living in the community.¹⁷

And many in the law enforcement field have spoken out in favor of restoring voting rights. One Kentucky prosecutor supporting change to that state's archaic disenfranchisement laws wrote, "voting shows a commitment to the future of the community."¹⁸ Similarly, current New Haven Police Chief Dean Esserman, writing in support of Rhode Island's 2006 successful referendum restoring voting rights when

Over Felony Disenfranchisement, 56 STAN. L. REV. 1147, 1167 (2004). (Noting that "...incarceration is the paradigmatic incapacitating punishment: It prevents an offender from committing (most) crimes during its duration. But disenfranchisement cannot incapacitate an ex-offender from committing future criminal offenses, except perhaps, from committing an extraordinarily narrow subset of voting-related crimes such as vote selling.").

¹⁴ See Itzkowitz & Oldak, *supra* note 12, at 738-739.

¹⁵ Karlan, *supra* note 13, at 1166.

¹⁶ *Id.* at 1168.

¹⁷ See National Black Police Association, Resolution of Restoring Voting Rights (2008), <https://www.brennancenter.org/analysis/nbpa-resolution-restoring-voting-rights>; Association of Paroling Authorities International, Resolution on Restoring Voting Rights (2008), <http://www.apaintl.org/resources/res-new.html#voting>.

¹⁸ R. David Stengle, *Let's Simplify the Process for Disenfranchised Voters*, CENT. KY. NEWS-J., Jan. 28, 2007, available at

<https://www.brennancenter.org/sites/default/files/legacy/Democracy/Stengel%20Kentucky%20op%20ed%201-28-07.pdf>.

he was Providence Police Chief, explained, “denying the vote to people who completed their prison sentence disrupts the re-entry process and weakens the long-term prospects for sustainable rehabilitation.”¹⁹ And Gil Kerlikowske, now the Commissioner of U.S. Customs and Border Protection, wrote when he was Chief of Police in Seattle, “voting is an important way to connect people to their communities, which in turn helps them avoid going back to crime. . . . We want those who leave prison to become productive and law-abiding citizens. Voting puts them on that path.”²⁰

Conclusion

As someone invested in the successful reentry of people after prison, I urge you to lend your full support to Senate Bill 340 because it promotes successful rehabilitation of formerly incarcerated people, preventing further crime and making our neighborhoods safer. Maryland has an historic opportunity to join the national movement to restore voting rights to people who are released from prison and returning to the community. With this bill, Maryland would join 13 other states and the District of Columbia in restoring the right to vote to former prisoners automatically upon their release from incarceration.²¹ In the interest of protecting Maryland’s public safety and promoting American democracy, I hope you will help the state seize this opportunity. Thank you for the opportunity to submit this testimony.



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¹⁹ Dean Esserman & H. Philip West, *Yes on Question 2 – Freed Felons Should Have a Voice*, PROVIDENCE J., Sept. 25, 2006 at C4.

²⁰ Gil Kerlikowske & John Lovick, *Restore Voting Rights to Ex-Felons*, SEATTLE POST-INTELLIGENCER, Feb. 12, 2009, available at <http://www.seattlepi.com/local/opinion/article/Guest-Columnists-Restore-voting-rights-to-1300030.php>. For more information on law enforcement support for restoring the right to vote, see Erika Wood, *Restoring the Right to Vote* 9-11 (2009) and <https://www.brennancenter.org/analysis/about-law-enforcement-criminal-justice-advisory-council>.

²¹ See Brennan Center for Justice, “Criminal Disenfranchisement Laws Across the United States,” available at <https://www.brennancenter.org/sites/default/files/analysis/RTV%20Map%2010%2016%2013.pdf>.