



# Race, a Felony Conviction & the Right to Vote

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April 20, 2007



# Race in the United States

- Race is an organizing principle.
- Race classifications = public policies.
- Indication of status.
- Race is a social construct:
  - racial ideologies.
  - racial hierarchy.
  - white supremacy.



# Race & Crime Policy

- Color line.
- Pervasive.
- Disproportionate racial impact.
- Confinement.
- Crisis of mass proportions.
- State level sanctions.



# The Right to Vote

- First duty of democracy.
- Translates mass preferences.
- No vote = No power.
- Prerequisite to access other rights.
- State controlled.



# Crime, Race & the Right to Vote

- Medieval Europe.
- Infamous crimes.
- American adaptation.
- Abolishment of slavery.
- “Black Crimes.”
- Convergence of two systems.



# Felon Disenfranchisement Laws

- Triggered by a felony conviction.
- *Green v. U.S.* (1958): Imprisoned for more than 1 year.
- Type of crime is defined by each state.
- Administrative practice.
- Punitive in nature.



# State Level Sanctions

- Patchwork of state disqualifications.
- Varied state-level laws.
- Felony conviction is the disability.
- Over-inclusive (broad classes of crime).
- Under-inclusive (crime is NOT tied to the loss of civil rights).



# Scale of Disenfranchisement

- 1 – No Disenfranchisement.
- 2 – Disenfranchised While Incarcerated.
- 3 – Disenfranchised While on Parole.
- 4 – Disenfranchised While on Probation.
- 5 – Waiting Period &/or Certificate of Eligibility.
- 6 – Pardon.
- 7 – Selective & Permanent Disenfranchisement.



# 1. No Disenfranchisement

- Maine.
- Vermont.



## 2. Disenfranchised While Incarcerated

- District of Columbia.
- Hawaii.
- Illinois.
- Indiana.
- Massachusetts.
- Michigan.
- Montana.
- New Hampshire.
- North Dakota.
- Ohio.
- Oregon.
- Pennsylvania.
- Utah.



## 3. Disenfranchised While On Parole

- California.
- Colorado.
- Connecticut.
- New York.
- South Dakota.\*

## 4. Disenfranchised While On Probation

- Alaska.
- Georgia.
- Idaho.
- Iowa.
- Kansas.
- Louisiana.
- New Jersey.
- New Mexico.
- Oklahoma.
- Rhode Island.
- South Carolina.
- Texas.
- West Virginia.
- Wisconsin.



## 5. Waiting Period/Certificate

- Arizona.
- Arkansas.
- Minnesota.
- Nebraska.
- Nevada.
- North Carolina.



## 6. Pardon

- Florida.\*
- Kentucky.
- Mississippi.
- Virginia.



## 7. Selective & Permanent Disenfranchisement

- Alabama.
- Delaware.
- Maryland.
- Missouri.
- Tennessee.
- Washington.
- Wyoming.



# New Jersey Crime Policy

- **First degree** conviction 10-20 years in prison.
- **Second degree** conviction 5-10 years in prison.
- First and second degree convictions result in a prison term.
- **Third degree** conviction may result in 3-5 year prison term.
- **Fourth degree** conviction may result in up to 18 months in jail.
- Third and Fourth degree convictions do not automatically result in a prison or jail term.



# New Jersey Electoral Law

- Individuals with a felony conviction can register to vote and vote in any municipal, state and federal election if they meet the following three criteria:
  1. no longer in prison;
  2. completed parole and/or probation; and
  3. register to vote.



# N.J. Prison Population

- Dramatic increase since 1980.
  - Under 4,000 admissions in 1980.
  - Over 15,000 admissions in 2000.
- In 2002, 14,849 men were released.
- 62% of those released were Black.
- 31% of those released returned to 2 counties: Essex and Camden.



# Political Disability

- Essex and Camden Counties:
  - Home to more parolees and prisoners than any other county in the state.
  - Higher concentration of parolees, new admissions and released prisoners.
- Net result: a loss of political voice.
- Vast sums of public money spent in a concentrated few neighborhoods.

# Conclusions

- In America, race was the impetus.
- FDLs create and maintain a racially stratified polity.
- Widespread.
- Political isolation.
- Generational.
- Challenges democratic values.