

MAY 2023

# NO SURRENDER, NO RETREAT!

Removing Barriers to the Ballot Box for Formerly Incarcerated People in Louisiana



A WHITE PAPER BY:



Voice of the Experienced (VOTE)  
Dr. Ariel White (MIT)  
Advancement Project

**ADVANCEMENT  
PROJECT**



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# ABOUT THE AUTHORS

## Voice of the Experienced (VOTE)

Voice of the Experienced (VOTE) is a grassroots organization founded and run by formerly incarcerated people (FIP), our families, and our allies. Based in Louisiana, we are dedicated to restoring the full human and civil rights of those most impacted by the criminal (in) justice system. Together we have the experience, expertise and power to improve public safety in Louisiana and beyond without relying on mass incarceration. People with convictions are able to achieve real rehabilitation and reentry when their full human and civil rights are restored. The specific rights we address are: employment rights, housing rights, medical rights, and voting rights. We believe those are the most crucial building blocks of life after incarceration, yet our daily organizing covers a wide variety of intersecting issues. We strategically develop formerly incarcerated leaders to be the champions of our reforms through community education, civic engagement, and policy advocacy. This is how we pave the path to truly ending mass incarceration.



## Dr. Ariel White

Dr. Ariel White is the Silverman (1968) Family Career Development Associate Professor of Political Science at MIT. She studies voting and voting rights, race, the criminal legal system, and bureaucratic behavior. Her work uses large datasets (and sometimes experiments) to measure individual-level experiences, and to shed light on people's everyday interactions with government. She received her PhD in Government from Harvard University, where she was a doctoral fellow in the Multidisciplinary Program in Inequality and Social Policy (at Harvard's Kennedy School) and a Radcliffe fellow. Her research has appeared in the *American Political Science Review*, *Science*, *Political Behavior*, and other journals. She participates in this white paper in her individual capacity.



# ABOUT THE AUTHORS



## Advancement Project

Founded in 1999, Advancement Project is a next generation, multiracial civil rights organization based in Washington, D.C. Rooted in the great human rights struggles for equality and justice, we exist to fulfill the promise of a caring, inclusive, and just democracy. We use innovative tools and strategies to strengthen social movements and achieve high-impact policy change. From its national office, Advancement Project uses the same high-quality legal analysis and public education campaigns that produced the landmark civil rights victories of earlier eras. We work in deep partnership with organized communities of color to develop community-based solutions to racial justice issues and to dismantle and reform the unjust and inequitable policies that undermine the promise of democracy. We envision a future where people of color are free – where they can thrive, be safe and exercise power. Driven by the genius of ordinary people and their movements, racism will no longer exist, and justice will be radically transformed.

## ACKNOWLEDGMENTS

We extend special thanks to Advancement Project and VOTE legal externs, interns and staff members for their contributions to this white paper.

# DEDICATION



## KENNETH "BIGGY" JOHNSTON May 8, 2023

This white paper is dedicated to Kenneth "Biggy" Johnston. A beloved father, brother, friend, mentor, legal mind, veteran and comrade: a freedom fighter in every sense of the word.

Biggy was a co-founder of the Angola Special Civics Project (the foundation of VOTE) and a beneficiary of the "20/45 Lifer Parole" law that he himself wrote while at Louisiana State Penitentiary. He was the lead plaintiff in *VOTE v. Louisiana* (2016) and made history as the first man on parole in Louisiana to register and vote. He paved the way for others to follow.

Biggy passed the day before we released this white paper and his efforts are in almost every page of this work. His spirit is with us each step of the way as we continue the fight for the human, civil and voting rights of every currently and formerly incarcerated person. Thank you for all your sacrifice, work and love to steer us.

Rest in Power, Biggy.

# The Story of Finney

Gregory Finney is an African American man who lives in Louisiana. He is a small businessperson who sells leather belts and other accessories at the rodeos and other local venues. He is formerly incarcerated and “off paper,” meaning, he has completed all terms of his sentence, including parole. Under Louisiana law, he is eligible to register and vote.

In August 2020, after completing his parole term, he asked his parole officer about voting. Finney has always voted. He was an active, registered Louisiana voter prior to his conviction. The parole officer said yes, he was eligible, then gave him a piece of paperwork and told him to take it to the parish registrar of voters’ office, which Finney did. There, he filled out a voter registration application and submitted the paperwork. Finney then received a letter from the registrar rejecting this paperwork. He went back to this parole officer a second time. The parole officer gave him the exact same paperwork. Finney then went back to the registrar’s office a second time. On that day, the office happened to be open for early voting. This time, the registrar’s office accepted his paperwork, told him he was now registered, and if he wanted to, he could vote that very same day, which he happily did.

A year later, in 2021, he received a letter from the registrar informing him that he was ineligible to vote. This surprised Finney. “Why am I suddenly ineligible? I voted last year!” Finney was still “off paper.” He had had no issues with the criminal legal system, nor did he change his address. With VOTE’s help, he phoned the registrar’s office. The deputy registrar looked him up in the computer system. They could see Finney had brought in the required paperwork and voted last fall, but the system flagged his account shortly after that election and moved him into “suspension.”



FINNEY AT VOTE HQ

There were no notes in the system, just “suspended—send the 21-day letter” along with a single scanned image of his submitted paperwork, which apparently did not match the “voter rights form” they usually see, the deputy registrar explained. This could be the reason the Secretary of State’s office flagged him for suspension.

Upon hearing this, Finney shared that he had already visited his parole officer twice for the same paperwork. The parole officer said this was the only paperwork available. Going another time would be his third time. Hearing this, the deputy registrar moved his account out of suspension and placed him on “active” status, but said yes, he indeed would have to obtain paperwork a third time to avoid being “suspended” in future elections.

The deputy registrar seemed sympathetic. “I don’t think y’all should have to come in like this. When you’re done, you should be done,” the deputy register stated, adding, “if minor issues with the scan are causing suspensions, this is something you can take up with the Secretary of State. This could be a system-wide issue.”

As for Finney, he did in fact go a third time to get the same paperwork. In reflecting on his frustrations with his voter registration experience, he shared the quote below.



FINNEY AT VOTE ADVOCACY DAY

“

“THIS MIGHT BE SOMETHING THEY ARE JUST DOING TO DISCOURAGE YOU FROM VOTING. THEY ARE DOING THIS SO I CAN TELL THE NEXT PERSON, ‘MAN, DON’T GO THROUGH ALL THAT TO REGISTER AND VOTE, YOU AIN’T GOT TO GO THROUGH ALL THAT.’ THIS MIGHT BE A GAME THEY PLAYING WITH US. IF I WASN’T A PART OF THIS ORGANIZATION [VOTE], I WOULDN’T KNOW WHERE TO SEEK HELP FROM.” –FINNEY

”

# I. Executive Summary

This white paper examines voter participation among voters with convictions after passage of Act 636 (2018) and Act 127 (2021). Hard-fought and won by VOTE and its allies, these two laws are the only advancements in rights restoration in Louisiana in nearly 50 years. Through a 64-parish, five-question survey instrument conducted in March and April 2023, we also examine the level of understanding of the new pro-democracy laws among the state's registrars of voters.

## Our voter participation findings are as follows:

- We first sought to quantify the universe of eligible voters with convictions. When Act 636 went into effect in spring 2019, it re-enfranchised nearly 30,000 people who were on supervision at the time. Since then, about 45,000 additional people have spent time on supervision, most of them eligible to vote due to Act 636. An even larger group of Louisianans are eligible to vote after older felony convictions: our best estimate is that there are about 300,000-380,000 eligible voters living in the state who have previously been incarcerated or on supervision for a felony.
- For people on supervision who regained the right to vote when Act 636 went into effect, we estimate that about one in ten are currently registered to vote.
- For the larger group of people with previous felony convictions, we estimate that about one in five are currently registered to vote and that about one half of those registrants turned out to vote in the 2020 general election.
- These participation rates are much lower than we see among other Louisiana residents: almost 70% of adult citizens in Louisiana were registered to vote in 2020.
- These low rates of participation after criminal convictions disproportionately affect African Americans, who experience higher rates of conviction and incarceration than other Louisianans. Incarcerated people in prison in Louisiana are 65% Black and 35% white in 2022. People on probation and parole are approximately 60% Black and 40% white. Considering the added challenges of housing, employment, and broader social issues, it is expected that people with felony convictions would vote relative to their stability.



# Executive Summary

Such low participation rates should alarm every Louisianan. Voters with convictions in Louisiana are experiencing significant barriers to participating in elections. One major barrier long identified by VOTE is insufficient training by the Louisiana Secretary of State for the registrars of voters on how to implement the new laws. Based on VOTE's extensive work in communities across the state, VOTE has long been aware of the confusion and lack of accurate information at the local level.

The office of the parish registrar of voters is important to everyday Louisianans. The registrars are the frontline government officials interfacing daily with the public on elections, voter registration, and voting rights. Through our survey instrument, we sought to gauge their basic understanding of the new laws and the complex voter-registration scheme for people with convictions.

## Our 64-parish, five-question survey findings are as follows:

- Eighteen parishes chose not to answer our four questions on voter eligibility generally and one question on whether voters with convictions had to take additional steps, including obtaining documentary proof of voter eligibility from the Department of Public Safety and Corrections (“Department of Corrections”). Some parishes referred us to the Secretary of State’s office and the GeauxVote website, or the Louisiana Attorney General’s office. Some chose not to speak with us at all.
- Of the 46 remaining parishes, approximately 37, or 80%, correctly stated that people with misdemeanor convictions are eligible to register and vote.
- As for people with felony convictions, approximately 43 out of 46 parishes, or 94%, correctly stated that people with felony convictions who are “off paper” (meaning, they have completed their sentences, including probation, parole, and/or incarceration) are eligible to register and vote.
- The findings go downhill as our questions pivoted to people who are still “on paper” or on supervision. Although Act 636 has been in effect for nearly four years, only 27 out of 46 parishes, or 59%, correctly stated that people who are on parole for five years are eligible to register and vote.

# Executive Summary

- Most dismally, only 23 out of 46 parishes, or 50%, correctly stated that people on probation who have never been to prison are eligible to register and vote.
- Finally, the majority of responding parishes stated incorrectly that all people with convictions seeking to register and vote are required to take additional steps, including obtaining documentary proof of eligibility from the Department of Corrections and bringing that document in person to the registrar's office in order to register to vote. Only one registrar correctly stated the Secretary of State's current position on this paperwork requirement: Those who are "suspended" voters must bring in the paperwork, but "new registrants" do not have to bring in the paperwork.

## Based on these findings, we recommend the following actions:

- **Pass HB 396.** Louisiana should immediately remove the barrier to voter participation created by this paperwork requirement for "suspended" voters. Election officials already directly receive information from the Department of Corrections and other state and federal agencies that allow the Secretary of State and the registrars to determine each applicant's eligibility to register and vote, rendering this paperwork requirement unnecessary and wasteful. The Louisiana Legislature can take action now. It should pass HB 396, which would eliminate this redundant Voter Eligibility Certificate, making people eligible to register if they do not appear on the Department of Corrections' certified list of ineligible people. The Secretary of State should also issue statewide guidance on HB 396, barring registrars from requiring paperwork from facially eligible voter applicants.
- **Conduct trainings on Act 636 and Act 127.** The Secretary of State should combat the confusion and lack of information at the local parish level. The Secretary should conduct regular mandatory trainings for all registrars of voters on Act 636, Act 127, and voter eligibility of people with convictions. The trainings should include written materials and reference guides that include layperson explanations of terms such as "order of imprisonment" and "incarcerated pursuant to the order." The Secretary of State should conduct similar trainings with its own staff, staff at the Department of Corrections, including in the Office of Motor Vehicles and Division of Probation and Parole, and with any other state or local agency that interacts regularly with formerly incarcerated people and people with convictions.

# Executive Summary

- **Launch a voter education and outreach project for voters with past convictions.** In order to increase voter participation, the Secretary of State should establish a statewide public-facing voter education project focused on the voting rights of formerly incarcerated people and people with convictions. This project should include updating all state and parish websites, including the Secretary of State and the Department of Corrections. The Secretary of State should use layperson explanations of terms such as “order of imprisonment” and “incarcerated pursuant to the order” when updating websites and creating voter education and outreach materials and planning outreach activities.
- **Notify voters with convictions on voter eligibility.** Finally, the Louisiana Secretary of State should work with the Department of Corrections to directly provide written, phone, and email notifications to individuals with felony convictions once they become eligible to vote. The notifications should encourage formerly incarcerated people to participate in democracy and include detailed information on how to register to vote. Critically, this notification should be retroactively, to the best of their ability, as people who have finished their sentences (some as long as decades ago) are still being flagged for the additional burdens.

## **In sum, VOTE’s grassroots organizing and power building strategy is working.**

Act 636 and Act 127 are sound public policy. More system-impacted voters, the majority of whom are Black voters, are registering to vote and voting more than ever before in Louisiana, a state that once had one of the highest rates of voter disenfranchisement based on conviction. As discussed below, Louisiana has a long history of manipulating its felony disenfranchisement laws in service of Jim Crow. VOTE and its allies are moving Louisiana out of this past. Significant barriers to participation still exist, however. Adopting the recommendations above will abolish some of the largest barriers and accelerate this movement forward.



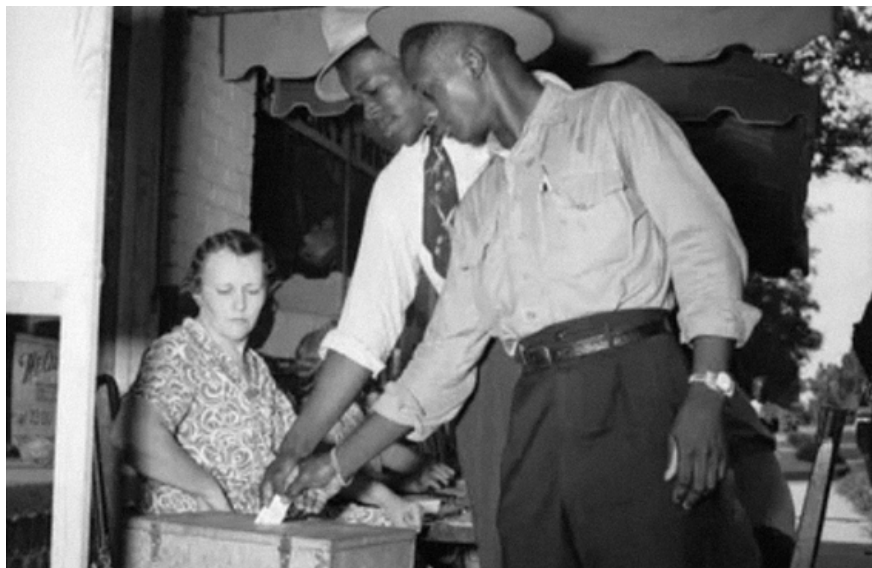
**BIGGY JOHNSTON AT VOTE ACT 636 RALLY**

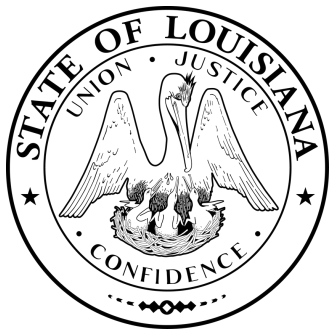
## II. Rights Restoration in Louisiana: A Timeline and Background

The fight for multiracial democracy has been long and arduous in the state of Louisiana. Led by Black Louisianans, this centuries-old struggle includes battles against the infamous Grandfather Clause, poll taxes, and other Jim Crow voter suppression tactics aimed squarely against Black voters.<sup>1</sup> Louisiana’s felony disenfranchisement laws have long aided those tactics.

Originally, Louisiana barred voting rights based on just four specific crimes (forgery, bribery, perjury, and other high crimes and misdemeanors) which all held a rational relationship to maintaining fair and untainted elections in the time of paper ballots.<sup>2</sup> In response to the extension of the franchise to Black men, and post-Reconstruction, Louisiana began permanently disenfranchising a person following a conviction for “any crime punishable by imprisonment in the penitentiary.”<sup>3</sup>

Louisiana’s 1898 decision to expand disenfranchisement to “any crime” is a product of racism. It occurred during the state’s notorious 1898 constitutional convention which “interpreted its mandate from the ‘people’ to be to disenfranchise as many [Black people] and as few whites as possible.”<sup>4</sup> The purpose of this expansion to “any crime” was none other than to “maintain wealthy white power and control and reduce the political power of Black Americans and lower-class white individuals.”<sup>5</sup> The 1921 Louisiana constitution continued this scheme.<sup>6</sup> Alongside the Grandfather Clause and other voter suppression tactics including white terrorism and violence, this disenfranchisement scheme essentially eliminated African Americans from the electorate.<sup>7</sup> The number of registered Black voters in Louisiana dropped from 130,344 in 1897 to 5,320 in 1900 to 598 voters by 1922.<sup>8</sup>





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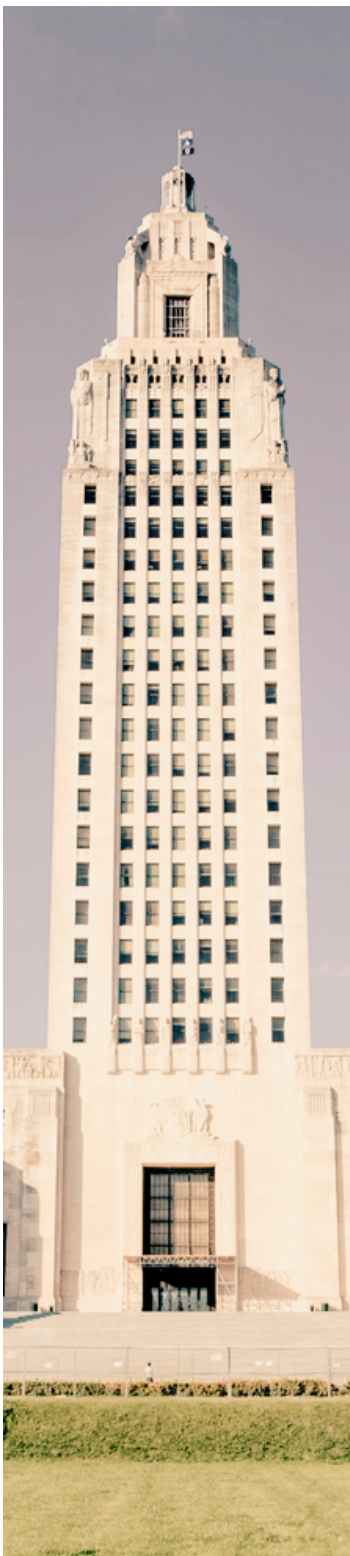
## 1974 -The Louisiana Constitution

In 1974, nine years after the Black freedom movements of the 1950s and 1960s secured passage of the federal Voting Rights Act of 1965, Louisiana removed parts of this scheme in its new constitution.<sup>9</sup> Instead of permanent disenfranchisement based on “any crime,” the 1974 constitution allowed the Louisiana government to temporarily suspend voting rights only while a person was “ under an order of imprisonment for conviction of a felony .”<sup>10</sup> To constitutional observers at the time, this guaranteed full suffrage rights for formerly incarcerated people, including people on probation and parole. Only those actually incarcerated in facilities would experience a temporary suspension of their voting rights.<sup>11</sup> The constitutional right to vote would be automatically restored without the need for any further action at the end of the suspension period.<sup>12</sup>

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## 1977 - Louisiana Legislature

The Louisiana Legislature, however, rapidly extinguished this progress, devising a new tactic of exclusion targeting people on probation and parole. Within a few short years of the 1974 Constitution’s ratification, the Legislature defined “order of imprisonment” as “ a sentence of confinement , whether or not suspended, whether or not the subject of the order has been placed on probation, with or without supervision, and whether or not the subject of the order has been paroled.”<sup>13</sup> This effectively disenfranchised all people in prison and all people on supervision in Louisiana.



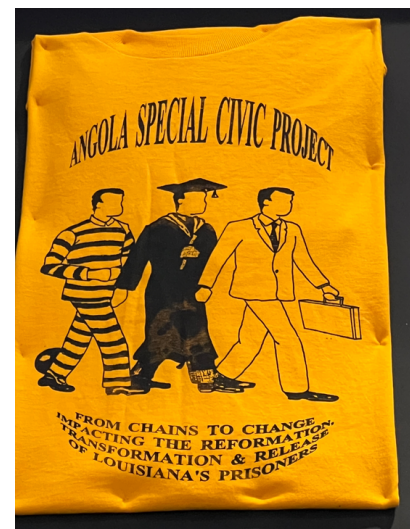
## 1990s - A Modern Rights Restoration Movement Begins

Over the next years, a vague system emerged where people only regained voting eligibility after finishing their “order of imprisonment” and obtaining various government records from correctional officials to hand deliver to the registrars of voters. However, without a formal process for voting rights restoration and no public education on the matter, many parishes were still barring people from voting for life. Throughout the 1990s, the Angola Special Civics Project (ASCP) worked through personal networks to educate formerly incarcerated people and their family members about their voting rights.

In 2003, the ASCP began its transformation into what is now VOTE, and a movement to overturn Louisiana’s felony disenfranchisement laws was born. In the early years, formerly incarcerated leaders such as Norris Henderson, Checo Yancy, and Biggy Johnston hustled to be anywhere and everywhere to inform people that completing a sentence of prison, parole, and/or probation meant restoration of voting rights. They also registered people to vote year-round.



ASCP GROUP PHOTO



ASCP FIRST T-SHIRT DESIGN

In 2012, the campaign to overturn Louisiana’s disenfranchisement laws gained momentum with a bill filed by [Rep. Patricia “Pat” Smith from Baton Rouge](#). Rep. Smith had family in the system and was keenly aware of the exclusionary laws that prevent people from being part of society after a conviction. Voting, being the fundamental right of citizenship, demanded attention despite the cynical views that conservatives would never allow a fracture in these policies, and Louisiana was a “lost cause” on criminal justice reform. When ASCP co-founder Biggy Johnston referenced his combat service for the country (which gave him PTSD), and how his “life on parole” would bar him from ever voting: politicians thanked him for his service while having no interest in allowing him to vote.



**BIGGY JOHNSTON AND NORRIS HENDERSON TESTIFYING ON HB 175**

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**“BECAUSE I WAS DRAFTED, THAT'S WHY I DIDN'T GET A CHANCE TO REGISTER. I'VE NEVER BEEN ABLE TO VOTE IN MY LIFE. BECAUSE I CAN'T VOTE, I DON'T FEEL LIKE AN AMERICAN. I FOUGHT FOR MY COUNTRY. I'M ON 50 PERCENT DISABILITY. . . . I SERVED 22 YEARS IN PRISON. I'VE BEEN OUT 20 YEARS. I FEEL LIKE AT SOME POINT I DESERVE A RIGHT TO VOTE FOR ONCE IN MY LIFE. . . . WE SHOULD BE GIVEN AN OPPORTUNITY TO PARTICIPATE IN SOCIETY. SHOULD FEEL A PART OF SOCIETY.”**

**-BIGGY JOHNSTON, CO-FOUNDER OF ANGOLA SPECIAL CIVICS PROJECT (ASCP) AND VOICE OF THE EXPERIENCED (VOTE) ON APRIL 30, 2013 BEFORE THE LOUISIANA HOUSE AND GOVERNMENTAL AFFAIRS COMMITTEE ON HB 175 [14](#)**

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Over the next five years, VOTE built up its organization, its coalition, and its influence. VOTE sued the State over the meaning of “under order of imprisonment.”<sup>15</sup> It also educated media and other organizations. VOTE humanized its community and passed other laws on criminal justice reform in the “lost cause” state of Louisiana.

### III. Act 636 (2018) and Act 127 (2021)

In 2018, VOTE won Act 636. After finding an imperfect compromise, and requiring three votes on the House floor, the passage of Act 636 marked a historical moment in the movement.

**Act 636 is the first advancement in rights restoration in Louisiana in nearly 50 years.**

It restores voting rights for most people on supervision, including people on parole for over five years and people who were sentenced to probation without prison time. <sup>16</sup> Specifically, it creates an exception to the voting ban imposed by the Louisiana Legislature during the 1970s on people who are under an “order of imprisonment.” Act 636 re-enfranchises those who are still under such an order, but have not been “incarcerated pursuant to the order within the last five years.”<sup>17</sup> As such, people on parole for over five years are now eligible to register and vote. People on probation who were not sent to prison (meaning, people who were never “incarcerated”) are also eligible to register and vote.



REP. PAT SMITH AND CHECO YANCY AT THE PASSAGE OF ACT 636



GOVERNOR JOHN BEL EDWARDS AND ADVOCATES AT THE SIGNING OF ACT 636



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## Barriers to Act 636 Implementation

The implementation of Act 636 immediately became challenging. VOTE and its members faced multiple barriers to voting under the new law. First, the paperwork requirement became a steep barrier. As described in Mr. F’s story above, in order to register to vote, voters with convictions were being required to go in person to Parole and Probation and/or the Department of Corrections to obtain a piece of paperwork called the “Voter Eligibility Certificate.” Voters with convictions were then required to bring this paperwork in person to their local parish registrar’s offices in order to register and vote. VOTE held additional public education workshops to try to explain this paperwork requirement and even physically transported individuals to various offices to obtain the paperwork. But VOTE did not and could not reach everyone. Some of VOTE’s members were unable to get the paperwork in time to register, and thus, unable to register to vote and vote.

Additionally, due to over-inclusive lists sent by the Department of Corrections to the Secretary of State and other data issues, newly eligible voters serving felony probation sentences were suddenly subject to erroneous removal from the voter rolls. The Secretary of State himself stated publicly that this was an implementation issue requiring a legislative fix.<sup>18</sup> Moreover, the lack of clarity on the meaning of the words “incarcerated pursuant to the order” became a barrier.<sup>19</sup> Finally, the lack of a robust statewide education and outreach program for voters with convictions by the Secretary of State and the registrars of voters contributed to the rocky and difficult implementation of Act 636.

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## The Story of Ms. M

Ms. M is a white woman who lives in Louisiana. She is a proud homeowner who has been “off paper” since 2009 and eligible to vote since then. She has never registered to vote or voted in her life, but in 2020, she decided to participate for the first time, starting with the August 2020 primary. In June 2020, she logged into the GeauxVote Online Registration System, went through the online application process, but did not hear from her parish registrar of voters.



GEAUX VOTE ONLINE REGISTRATION SYSTEM  
FOR ALL LA ELECTIONS-RELATED INFO

In late July, with the primary around the corner, Ms. M finally called the registrar’s office. Personnel in the office informed Ms. M that she had been flagged by “the system” and directed her to Parole and Probation, an office Ms. M had had no contact with for 11 years. A day or so after the call, Ms. M received a letter in the mail from the registrar. The letter caused her to feel fear. She recalls: “[I’ve been off paper since 2009 with no problems. I have rebuilt my life. Then I get this letter.] I’m interpreting this as if I do not do this or that I will be charged with a felony conviction. Is this true? [The letter] was bullying. It was intimidating.” With VOTE’s assurance that the letter was not charging her with a crime, Ms. M. then called the registrar’s office again. “I was able to get very little information from the person I spoke with. It was like pulling teeth to get information on what to do. It was like she didn’t want to help me.” Eventually, with VOTE’s assistance, Ms. M found her way to Parole and Probation office in her parish and got her paperwork.

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## A “Clean-Up” Bill – Act 127 (2021)

In 2021, after continued advocacy and with the support of the Secretary of State, VOTE won Act 127 – a “clean-up” bill meant to clear the path to full implementation of Act 636. Act 127 effectively addresses some barriers, resolving the data issues and defining “incarcerated,”<sup>20</sup> but the paperwork requirement remains a barrier.

Though Act 127 appears to have removed the paperwork requirement, the Secretary of State recently declared that Louisiana is still requiring paperwork. In a recent September 2022 letter to the registrars, the Secretary’s current position is this: those who are “suspended” voters must bring in paperwork, but “new” voters do not.<sup>21</sup> “Suspended” voters apparently include people who previously registered to vote. It also may include new voters like Ms. M above.



## VOTE's Education Efforts & The Story of Ms. S

VOTE has invested countless hours and hundreds of thousands of dollars in voter education and awareness efforts including video production, radio ads, educational mailers, billboards, posters for all Probation & Parole offices and a statewide bus tour with Black Voters Matters. In October 2022, VOTE spent \$60,341 to mail educational information to 78,000 people on (or recently on) probation or parole in Louisiana. One of the recipients of that mailer is Ms. S from Northern Louisiana. Ms. S is an African American elder, a lifelong voter, and was recently sentenced to probation for a minor crime. She was told by her parish registrar that she was ineligible to vote, and called VOTE's office in New Orleans to clarify her rights.

**On Probation? Off-Paper?  
Long-Term Parole?  
Pre-Trial Detention?**

# YOU CAN VOTE!

The fight for voting rights in Louisiana is one of blood, sweat, and tears. In 2017, Voice of the Experienced (VOTE) sued the state to allow people with felony convictions to vote. In 2019 this basic civic right was restored. That same year we overturned the non-unanimous jury verdicts.

In 2022, we changed the law again to make it easier for people to register to vote.

**People on Probation: CAN VOTE**

- Voting Rights are not impacted by a probation sentence

**People on Parole: Can vote IF they have been on parole over 5 years**

- You need a Voter Eligibility Certificate from a parole office, and bring it to the local registrar

**People off-paper, serving no sentence: CAN VOTE**

- If you were never registered before, you can register online or in - person, with no extra paperwork needed
- If you were ever registered, you will need a Voter Eligibility Certificate from a parole office, and bring it to the local registrar

**The only people disenfranchised from voting are in prison, or on parole for less than 5 years.**

For help getting registered call VOTE  
**504-571-9599**  
[voiceoftheexperienced.org/voting-rights](http://voiceoftheexperienced.org/voting-rights)

OCTOBER 2022 VOTING RIGHTS EDUCATIONAL MAILER SENT BY VOTE

**YOU CAN VOTE**

**People on Probation: CAN VOTE**

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**People on Parole: Can vote IF they have been on parole over 5 years**

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**People off-paper, serving no sentence: CAN VOTE**

- If you were never registered before, you can register online or in person, with no extra paperwork needed
- If you were ever registered, you will need a Voter Eligibility Certificate from a parole office, and bring it to the local registrar

**The only people disenfranchised from voting are in prison, or on parole for less than 5 years. Register at [geauxvote.com](http://geauxvote.com)**

Voice of The Experienced (VOTE) is a grassroots nonprofit dedicated to restoring the human & civil rights of those impacted by the criminal legal system.

For voter assistance contact (504) 571-9599 or [info@voiceoftheexperienced.org](mailto:info@voiceoftheexperienced.org)

VOTE DESIGNED POSTER DISTRIBUTED TO PROBATION & PAROLE OFFICES

VOTE's Deputy Director Bruce Reilly informed Ms. S that she was, in fact, eligible, and Act 127 was supposed to end the demand of Voter Eligibility Certificates for people sentenced to probation. Mr. Reilly called the registrar and asked about eligibility. He was passed off to the person who "knows" best about this issue. Unfortunately, the information provided by the registrar worker was incorrect, and they reiterated the law pre-Act 636, that someone must have "completed their order of imprisonment."

Mr. Reilly was stunned that he had to push back on the registrar employee providing incorrect information. Eventually the worker read the statute aloud. He called the lawyer for the Secretary of State, Rep. Jenkins, and several attorneys. The parish registrar explained that, even with the Voter Eligibility Certificate, it was too late to get her back on the rolls because the registration deadline had passed. This draws into question whether someone was “suspended” or “cancelled,” and how the Registration deadline factors into the process. Ms. S was disenfranchised in the November 2022 election for U.S. Senate, school board, mayor, and critical millages.

No eligible Louisianan voter – “suspended” or not – should have to run paperwork around various government offices, especially since those offices now have access to the information contained in the paperwork. Act 127 fixed the data issues, striking the over-inclusive lists. The Secretary of State and registrars now receive monthly lists of ineligible voters and other information from the Department of Corrections that allow them to determine each applicant’s eligibility to register and vote.<sup>22</sup> Act 127 requires sheriffs, district attorneys, and the Department of Corrections to share information directly with the registrars, and U.S. Attorneys to share information with the Secretary of State, giving the Secretary and registrars access to multiple sources of information on voter eligibility.<sup>23</sup> Last year, the Department of Corrections further strengthened internal data exchanges by creating No. IS-F-3, an internal regulation that, among other things, specifies the internal processes for compiling the monthly ineligible lists.<sup>24</sup> The paperwork, at this point, is wholly redundant.

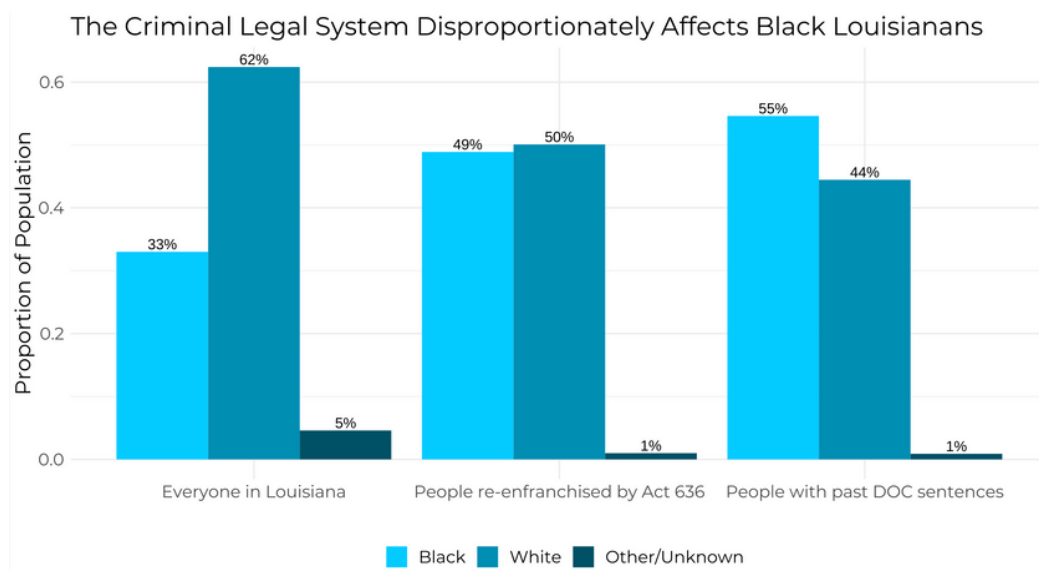
In light of this ongoing paperwork barrier and all the other barriers to voter registration, it is no wonder that voter participation levels are low. We sought to understand current rates of participation among people with past convictions, especially among Black voters, which is why we initiated this data analysis. Our results are set forth below.

## IV. Voter Participation Data

When Act 636 went into effect in spring 2019, it re-enfranchised nearly 30,000 people who were on supervision at the time. Since then, about 45,000 additional people have spent time on supervision, most of them eligible to vote due to Act 636. And an even larger group of Louisianans are eligible to vote after older felony convictions: our best estimate is that there are about 300,000-380,000 eligible voters living in the state who have previously been incarcerated or on supervision for a felony.\*

Data issues make it hard to be certain exactly how many of these people have managed to register and vote, but we have linked corrections data with state voting records to estimate registration rates for these groups. For people on supervision who regained the right to vote when Act 636 went into effect, we estimate that about one in ten of them are currently registered to vote. For the larger group of people with previous felony convictions, we estimate that about one in five of them are currently registered to vote and that about half of those registrants turned out to vote in the 2020 general election. These participation rates are much lower than we see among other Louisiana residents: almost 70% of adult citizens in Louisiana were registered to vote in 2020.<sup>25</sup> VOTE represents a large constituency of voting-eligible Louisianans, but there is more work to be done to get people onto the voter rolls.

These low rates of participation after criminal convictions disproportionately affect African Americans, who experience higher rates of conviction and incarceration than other Louisianans. The plot below compares the racial composition of the state of Louisiana and of the groups described above. The US Census Bureau estimates that 33% of Louisiana residents overall are Black. Based on Department of Corrections records, we calculate that 49% of newly-reenfranchised people on supervision are Black, and that 55% of people with past felony sentences are Black.



Given Louisiana’s long history of racial discrimination in voting and use of the criminal legal system to eliminate Black voting, the continuing disparate impact on Black voters is a call to action for all Louisianans. Our data indicates a base of 380,000 eligible voters in Louisiana who have conviction histories, the majority of whom are Black. There is still much to do to bring these new voters into Louisiana’s democracy. In order to prepare for the work ahead, we sought further clarity on the barriers at the local level, including a major barrier long identified by VOTE – the lack of training of the local registrars of voters on Act 127 and Act 636.

# V. 64-Parish Survey of the Registrars of Voters

Louisiana's 64 parish registrars of voters are powerful; they hold state offices created by the Louisiana Constitution.<sup>26</sup> The registrars are responsible for voter registration in their parish and the enforcement and administration of Louisiana's voter registration laws.<sup>27</sup> As such, the registrars should be literate in the provisions of the Election Code governing voter eligibility for formerly incarcerated people. Registrars do not need to understand criminal law and the details of a person's criminal sentence in order to enforce the Election Code. Registrars should be generally knowledgeable about the voting rights of formerly incarcerated people and people with convictions. Registrars should also know whether a person needs to take any additional steps in the current voter registration process such as obtaining paperwork as obtaining paperwork from the Department of Corrections.

With this in mind, law student interns and staff members of Advancement Project and VOTE telephoned each parish and administered a short five-question survey.<sup>\*\*</sup> Only 46 parishes answered our questions. Eighteen parishes chose not to answer. Some parishes referred us to the Secretary of State's office and the GeauxVote website, or the Louisiana Attorney General's office. Some chose not to speak with us at all.<sup>28</sup>

We started with four voter eligibility questions. The vast majority of people with past convictions in Louisiana are eligible to register and vote. Our first four questions focused on whether the registrars know this, and specifically, whether they know when voting rights are lost or restored for (1) people with misdemeanor convictions; (2) people with felony convictions who are "off paper;" (3) people on parole for five or more years; and (4) people on felony probation who never went to prison.

**Group 1.** People with misdemeanor convictions. Registrars should know that people with misdemeanor convictions never lose their right to vote. Of the 46 responding parishes, 37 knew the correct answer. That means, however, that nine parishes provided a wrong answer or were unsure of this basic voter eligibility law.

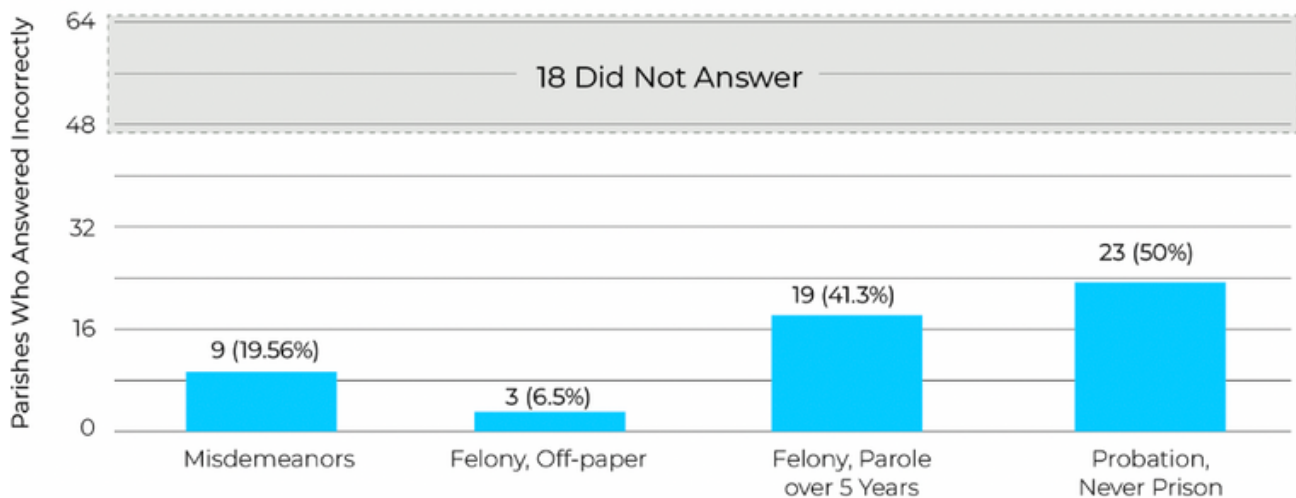
**Group 2.** People who are "off paper." Most registrars should know that people who are "off paper," meaning, those who have completed their sentence including probation, parole, and/or incarceration, are eligible to register. Fortunately, the vast majority did. Of the 46 responding parishes, 43 out of 46 parishes, or 94%, correctly stated that people with felony convictions who are "off paper" are eligible to register and vote.

**Group 3.** People on parole for five years. As the visual below showcases, the findings go downhill as our questions pivoted to people who are still “on paper” or on supervision. Louisiana enacted Act 636 five years ago this spring and Act 127 in 2021. By now, all or close to all registrars should also know that most people who are “on paper” also have the right to vote.<sup>29</sup> Unfortunately, they do not. Our survey found that only 27 out of 46 parishes, or 59% know that people on parole for five years or more are eligible to register and vote .

**Group 4.** People on probation who never went to prison. Registrars should also know that people on felony probation who never went to prison – meaning, they were never “incarcerated” or “actually confined” in a prison – may register and vote. Most dismally, only 23 out of 46 parishes, or 50%, correctly stated that people on probation who have never been to prison are eligible to register and vote. Much like the story of Ms. S (above), a citizen of Louisiana is expected to follow the instructions of their parish registrar, and they should be able to trust the information provided is correct. Ms. S would not have questioned her eligibility if not for the letter from VOTE she received in the mail.

## 64 PARISH SURVEY - WHO GOT IT WRONG OR REFUSED TO ANSWER

46 Total Responses - 18 Did Not Answer



## Registrars and Paperwork

The majority of the responding registrars clearly lack proficiency in the voter registration laws governing people on supervision. Reliance on the paperwork from the Department of Corrections may be driving this. One registrar in southeastern Louisiana answered all the questions without saying yes or no, but instead saying repeatedly “as long as they have a letter from the Department of Corrections, they can register and vote.”

Another registrar in central Louisiana stated he does not know whether “on paper” people can vote, but it does not matter because “the voting rights certificate from the [Department of Corrections] will handle that.” Another shared that he does not know the “[Department of Corrections] side of things” and “this is why they need to bring in the letter.” One registrar in southeastern Louisiana stated there are “so many different levels of probation and parole, and we as registrars cannot determine what that means or what their sentences are. We can only look at the Voter Rights Certificate.”

Unsurprisingly then, on our last question regarding paperwork, the majority of responding parishes stated incorrectly that all people with convictions seeking to register and vote are required to take additional steps, including obtaining paperwork. Only one registrar correctly stated the Secretary of State’s current position on this paperwork requirement: Those who are “suspended” voters must bring in the paperwork, but “new registrants” do not have to bring in the paperwork.<sup>30</sup>

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## Training

We did not directly ask whether registrars had received the Secretary of State’s 2022 letter on Act 127 on “suspended” and “new” registrants. However, it was clear that training is an issue. Some registrars directly told us they needed better and additional training on the new laws. A few of the registrars shared that they had not received any training. One registrar in a parish in southeastern Louisiana said that the Secretary of State had not provided their office with any information or notes about the new laws. Instead, the Secretary of State circulated only a “printout” of the laws, which apparently were excerpts of the Louisiana Election Code. This registrar then spent time during the phone survey reading and rereading the complicated language contained in the “printout,” expressing confusion over this language. Another registrar from a parish in southwestern Louisiana said the Secretary of State had not given the registrars complete guidance on the new laws, and even stated that they [the registrar] were unsure if the laws had gone into effect yet.

Coupled with the other barriers to voting, this clear lack of training and information at the local registrar level is making it virtually impossible for some people with past convictions to register to vote and participate. As set forth below, Louisiana must take action.



# VI. Recommendations

Eradicating the barriers to voting for approximately 300,000 eligible but unregistered voters with convictions and increasing their levels of participation should be a top priority for all Louisianans. Louisiana should take immediate action on the following items:



## 1. Louisiana should enact HB 396 and eliminate the redundant paperwork requirement.

Louisiana should strike down the barrier created by this paperwork requirement for “suspended” voters. The registrars and the Secretary of State already directly receive information from the Department of Corrections and other agencies that allows the Secretary of State and the registrars to determine each applicant’s eligibility to register and vote, rendering this paperwork requirement unnecessary. Louisiana should pass HB 396, which would eliminate this redundant Voter Eligibility Certificate, making people eligible to register if they do not appear on the Department of Corrections’ certified list of ineligible people.



## 2. The Secretary of State should issue statewide guidance on HB 396, barring registrars from requiring paperwork from facially eligible voter applicants and directing them to the lists of ineligible voters.

Our registrar survey findings indicate that registrars rely almost exclusively on the Voter Eligibility Certificate. Instead of the Voter Eligibility Certificate, the registrars should rely on the lists of ineligible persons and other information from the Department of Corrections when verifying a voter registration application. The Secretary of State should issue clear guidance to this effect.



## 3. The Secretary of State should train the registrars of voters.

The Secretary should conduct regular mandatory trainings for all registrars of voters on Act 636, Act 127, and voter eligibility of people with convictions generally. The trainings should include written materials and reference guides that include layperson explanations of terms such as “order of imprisonment” and “incarcerated pursuant to the order.” The Secretary of State should conduct similar trainings with its own staff, staff at the Department of Corrections, including in the Office of Motor Vehicles and Division of Probation and Parole, and with any other state or local agency that interacts regularly with formerly incarcerated people and people with convictions.

# Recommendations



## 4. The Secretary of State should create a public-facing voter education project on the voting rights of formerly incarcerated people.

The voter education and outreach project should include updating all state and parish websites, including those of the Secretary of State’s office and the Department of Corrections. The Secretary of State should use layperson explanations of terms such as “order of imprisonment” and “incarcerated pursuant to the order” when updating websites and creating voter education materials. The Secretary of State should enlist statewide and local elected officials, community groups, and other stakeholders in this project.

Additionally, the Secretary of State should directly tackle the myths around voting for formerly incarcerated people. For example, many in the state and nationally – including election officials, voters, and community members – believe all voters with convictions in Louisiana have to wait five years before being able to register and vote. This is incorrect. Only people on parole have to wait five years. The Secretary could create accessible graphics such as this one below for use online and in person with voters and registrars.

Finally, the Secretary of State is best positioned to propose a change in language of the Election Code. “Under order of imprisonment” is a unique phrase, unused anywhere else. For the sake of all who need to interpret the law, now and forever after, it should be amended to something easily understood.

### THERE IS NO 5-YEAR WAITING PERIOD IN LOUISIANA

#### MYTH

**ALL VOTERS** with felony convictions have to wait 5 years before registering to vote & voting.

#### FACT

**NOT ALL VOTERS!** Not even most.  
Below are some examples.

“Off Paper” Individuals Who Have Completed Their Sentences

Can register & vote **RIGHT NOW!**

Individuals on Probation, But Have Never Served Time In Prison

Can register & vote **RIGHT NOW!**

Individuals Who Are Currently On Active Parole

Currently need to wait **5 years or complete,** whichever is sooner.

# Recommendations



## 5. Louisiana should notify formerly incarcerated people and people with convictions.

Finally, the Secretary of State should work with the Department of Corrections to provide written, phone, and email notifications to individuals with felony convictions once they become eligible to vote. The notifications should encourage formerly incarcerated people to participate in democracy and include detailed information on how to register to vote. Notifications appear to be effective in other states. Although hundreds of thousands of eligible voters are no longer under supervision, the State should endeavor to reach those people who likely became eligible long ago, yet were given bad information about their lifetime disenfranchisement.

“

“THE PROBATION AND PAROLE OFFICERS AND THE [DEPARTMENT OF CORRECTIONS] PEOPLE DON'T TELL PEOPLE THEY CAN RE-REGISTER AND VOTE, SO THEY DON'T KNOW, AND A LOT OF PEOPLE COME INTO THE REGISTRAR AND THEY DIDN'T KNOW FOR YEARS THAT THEY COULD VOTE. THAT IS PART OF THE PROBLEM. THAT'S WHAT I SEE.”

- REGISTRAR OF VOTERS IN A NORTHEASTERN LOUISIANA PARISH

”

# VII. Conclusion

The struggle for a just and inclusive multiracial democracy in Louisiana is constant and unrelenting. Currently, only one in ten eligible voters on supervision are registered to vote, and only one in five eligible voters with older convictions are voting, compared to seven out of ten in the adult-citizen voting population. There are currently approximately 300,000 eligible, but unregistered voters with convictions in Louisiana, a disproportionate number of whom are African American.



**VOTE MEMBERS DURING VOTE, POWER COALITION AND BLACK VOTERS MATTER 2019 STATEWIDE GOTV BUS TOUR**

“VOTING ISN'T JUST AN ACTION ON THE FIVE OR SIX ELECTION DAYS WE HAVE IN LOUISIANA. IT'S A YEAR-ROUND COMMITMENT, A WAY OF LIFE, TO BE PART OF A COMMUNITY. IT'S NOT 'ME, THE PEOPLE;' IT'S 'WE, THE PEOPLE.'”

– BRUCE REILLY, DEPUTY DIRECTOR OF VOTE

# Conclusion

Louisiana should not and cannot stop until every eligible but unregistered voter is registered to vote and voting, including voters with convictions. This requires adopting the recommendations above and fully implementing Acts 636 and 127. Full and robust implementation of those hard-fought laws are part of an overall movement led by VOTE to restore full human and civil rights of those most impacted by the criminal (in) justice system and wholeness to individuals and communities of color across Louisiana.

“

“AS WE USED TO SAY IN ANGOLA:  
NO SURRENDER, NO RETREAT.”

- CHECO YANCY, POLICY DIRECTOR OF  
VOTERS ORGANIZED TO EDUCATE

”



CHECO YANCY AT VOTE ADVOCACY DAY

# APPENDIX A

## Data on Voter Eligibility and Participation

Our analysis of registration rates relies on datasets from the Department of Corrections and on state voting records. To understand who has been on supervision and eligible to vote in recent years, we use monthly files that the Department of Corrections terms the “felons” file. Previously sent monthly from Department of Corrections to the Secretary of State, this contains people with felony conviction who are in Department of Corrections custody or on supervision in a given month. To estimate the floor and ceiling of the possible range of how many people were re-enfranchised by Act 636, we first restrict to people with custody code "SUP" in the April 2019 file (this gives the maximum number of people who would have been re-enfranchised when it went into effect) and then look back at prior snapshots of the same file to identify people who have appeared with custody code "PRI" within the past five years. This latter approach allows us to identify and remove people who may not have been re-enfranchised immediately due to an order of imprisonment in the last five years, though it is over inclusive and should be seen as giving a "floor" estimate of the minimum number of people who regained the right to vote when Act 636 went into effect. Taking these two approaches to identifying newly-reenfranchised people yields a range of 22,199-30,564 people. When working with this set of Department of Corrections files, we use the "DOC NUMBER" field to identify and remove duplicate records and count each individual only once. To estimate how many people in total have spent time on supervision since Act 636 went into effect, we combine the monthly snapshot files from April 2019 through December 2022, limit to people with custody status “SUP,” and again use Department of Correction numbers to identify unique individuals who appeared in these datasets over this time period.

To understand how many people in Louisiana register to vote after a past criminal conviction and sentence, we use monthly files that the Department of Corrections terms the "releases" file. This file, previously sent monthly from Department of Corrections to Secretary of State, contained records for people with felony convictions released from Department of Corrections custody or supervision. This file is both over- and under-inclusive of the set of people living in Louisiana with a felony conviction and currently eligible to vote. It does not include eligible voters who were released from Department of Corrections custody before the period covered by these files (which contain records with release dates mainly in the 1990's and post-2000), or eligible voters with federal felony convictions or convictions from other states. It does include people who may no longer be living in Louisiana after their release, either because they have moved away or because they are deceased. However, we think this file gives the best available picture of eligible voters in the state, and we note that its size closely accords with estimates drawn from other sources. As of January 2022, this file contained records for 380,520 people.

# APPENDIX A

## Data on Voter Eligibility and Participation

An alternative source of estimates of eligible post-conviction voters comes from an academic article applying demographic methods to calculate the numbers of people currently living in each US state with a past felony conviction or a past experience of imprisonment.<sup>31</sup> Referring to Table S9 in supplemental appendix 1 of that paper indicates that as of 2010 (the most recent year covered by their estimates), there were 304,000-363,000 people living in Louisiana who had been convicted of a felony at some point. These numbers may still be a slight overstatement of the quantity being reported here (given that some of these people may not be citizens or may be ineligible to vote due to current incarceration, and others may not have received a sentence of supervision or incarceration) or an understatement (as these are estimates for 2010), but we note their similarity to the size of the DOC file.

To estimate registration and voting rates, we combine Department of Corrections records with state voting records drawn from NGP VAN. We seek to merge individual Department of Corrections records with voter registration records using fields such as name, address, and date of birth. This record linkage process is made more difficult by the possibility of name transcription errors or different name usages or street addresses reported across datasets, as well as the fact that many voter registration records in Louisiana do not contain full birthdate information (roughly half of voters have birthdates set to January 1 or the first of another month). Our main approach to record linkage uses the "fastLink" package in R,<sup>32</sup> implementing a probabilistic matching approach on first name, last name, middle initial, day of birth, sex, and race, while blocking on year of birth. We check the robustness of this approach using a variety of exact-matching approaches on different combinations of fields and do not find higher match rates using any of these alternative approaches. Replication code for these analyses is available on request.

When discussing racial disparities in carceral contact, we rely on Department of Corrections "RACE" classifications from the Department of Correction files. These may not necessarily reflect individuals' self-reported racial identity, but they are the best information we have about most of the people in these records. We draw 2022 estimates of the racial composition of Louisiana's population from <https://www.census.gov/quickfacts/LA>. In both sources, we collapse all groups other than "White" or "Black" into an "Other" category given small numbers; in the case of DOC data, this category also includes people with no racial information included in the records.

# APPENDIX B

## Survey for Louisiana Registrars of Voters

My name is \_\_\_\_\_ and I am [a law student/staff member] at \_\_\_\_\_ . I am volunteering/working with a local nonprofit and nonpartisan organization in Louisiana called Voice of the Experienced (VOTE). VOTE's members have questions about how to register to vote, and I am helping VOTE talk with registrars across the state in order to understand the voter registration process and voter eligibility. I have a few questions for you.

### Questions

1. If a resident of your parish who is otherwise eligible to vote (meaning, they are an 18-year-old U.S. citizen) contacts your office and asks, I have a misdemeanor conviction, can I register and vote, what is your response to this person? Can people with misdemeanor convictions register and vote in Louisiana?
2. Let's talk about people with felony (not misdemeanor) convictions. In Louisiana, can a person with a felony conviction who is out of prison and has completed any probation or parole – meaning, someone who is “off paper” – register and vote?
3. Let's turn to people who are “on paper,” meaning on parole and probation. Let's start with people on parole. Can a person who has been on parole for over five years register and vote?
4. Next, let's talk about people on probation. If a person is on probation but has never been to prison (never “touched the facility”), can this person register and vote?
5. Thank you. Now, last question. Do eligible voters with convictions have to take any additional steps in order to register and vote? For example, do they have bring in the Voter Eligibility Certification or the Voting Rights Certificate from the DOC or Parole or Probation?



# END NOTES

[1] Louisiana invented the Grandfather Clause, a shameless attempt to bypass the Fifteenth Amendment’s prohibition against racial discrimination in voting. Because Louisiana could no longer outright ban African Americans from voting, Louisiana instead imposed onerous property and literacy restrictions on all persons, while creating an exception for the “sons and grandsons of persons eligible to vote before January 1, 1867,” meaning, white men. The U.S. Supreme Court struck down Grandfather Clauses in *Guinn v. United States*, 238 U.S. 347 (1915), but Louisiana’s Grandfather Clause, along with other voter suppression tactics, were already in place and would all but eliminate “Black voting in Louisiana for nearly four generations.” From Bruce Scottus Reilly, *To Purify the Ballot* the Racial History of Felon Disenfranchisement in Louisiana Prologue to *Vote v. Louisiana*, 2017-Ca-1141 (La. App. 1 Cir.), 19 Loy. J. Pub. Int. L 105 (2018) (“Mr. Reilly’s Article”) at page 120, available here: <https://www.voiceoftheexperienced.org/s/EN-1-REILLY.pdf>.

For more on the history of racial discrimination in voting in Louisiana, see Brief of Historians Walter C. Stern, et al. as amici curiae in support of plaintiffs-appellants, *VOTE v. Louisiana* (Feb. 18, 2018) (“Professor Stern’s Brief”), at page 8, available here: <https://www.voiceoftheexperienced.org/s/EN-1-STERN.pdf>; Debo P. Adegbile, *Voting Rights in Louisiana, 1982-2006*, A Report of RenewtheVRA.org (Mar. 2006), available here: <https://www.voiceoftheexperienced.org/s/EN-1-ADEGBILE.pdf>; Amici Curiae Brief of Louisiana Constitutional Law and History Scholars on behalf of Appellants, *VOTE v. Louisiana* (Dec. 7, 2018) (“Professor Armstrong’s Brief”), available here: <https://www.voiceoftheexperienced.org/s/EN-1-ARMSTRONG.pdf>; and Brief by the NAACP Legal Defense & Education Fund, Inc., The Sentencing Project, & Southern Poverty Law Center, *VOTE v. Louisiana* (Nov. 6, 2017) (“NAACP LDF’s Brief”), available here: <https://www.voiceoftheexperienced.org/s/EN-1-NAACP-LDF.pdf>

[2] See Mr. Reilly’s Article at page 112.

[3] See Mr. Reilly’s Article at page 122 (quoting the language from Louisiana’s 1898 Constitution, La. Const. art. VI, § 4 (1898)). Also see the NAACP LDF’s Brief at pages 9 -15.

[4] See the NAACP LDF’s Brief at 11 (quoting *United States v. Louisiana*, 225 F. Supp. 353, 367-70 (E.D. La. 1963)).

[5] See the NAACP LDF’s Brief at 9 (citing to Pippa Holloway, *Living in Infamy, Felon Disenfranchisement and the History of American Citizenship* (2014) at page 91, footnote 45).

[6] See the NAACP LDF’s Brief at 9 (citing La. Const. art. VIII, §6 (1921)).

[7] Nicholas Gilmore, *The White League’s Violent Insurrection in Louisiana Was Almost a Success*, *Saturday Evening Post* (Jan. 21, 2021), available here: <https://www.saturdayeveningpost.com/2021/01/the-white-leagues-violent-insurrection-in-louisiana-was-almost-a-success/>.

[8] See Professor Stern’s Brief at page 7 where he discusses how African American voter registration rates began recovering after *Smith v. Allwright*, 321 U.S. 649 (1944), a U.S. Supreme Court decision banning states from excluding Black people from primary elections, and passage of the federal Voting Rights Act in 1965. By March 1974, Louisiana’s voting rolls included 388,345 registered African Americans voters, constituting 22.6% of all registered voters.

[9] Given Louisiana’s long history of racial discrimination in voting, the state became a “covered” jurisdiction under Section 4(b) of the Voting Rights Act of 1965. See *Jurisdictions previously covered by Section 5 at the time of the Shelby County decision*, U.S. Dept. of Justice, Civil Rights Division (updated Nov. 29, 2021), available here: <https://www.justice.gov/crt/jurisdictions-previously-covered-section-5>.

[10] Louisiana’s affirmative and explicit constitutional right to vote is set forth in Article I, Section 10(A) of the 1974 Constitution, available here: <https://www.legis.la.gov/legis/Law.aspx?d=206275>.

[11] See Professor Armstrong’s Brief at page 19 where she discusses a famous writing of Professor Lee Hargrave, the coordinator of legal research for the 1974 constitutional convention, in which Professor Hargrave explains that “‘order of imprisonment’ . . . does not prevent a person on probation or parole from voting.” Also see Professor Stern’s Brief at pages 15-16.

[12] See *Fox v. Mun. Democratic Exec. Comm. of City of Monroe*, 328 So. 2d 171, 174 (La. Ct. App. 1976).

[13] See La. R.S. 18:2(8), available at: <https://www.legis.la.gov/Legis/Law.aspx?d=81529>.

[14] Louisiana House of Representatives, Archived Videos, Testimony of Biggy Johnston before the Louisiana House and Governmental Affairs Committee on HB 175 (Apr. 30, 2013), available here: [https://house.louisiana.gov/H\\_Video/VideoArchivePlayer?v=house/2013/Apr\\_2013/0430\\_13\\_HG](https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2013/Apr_2013/0430_13_HG).

[15] The case is called *VOTE v. State of Louisiana*, 2017-1141 (La. App. 1 Cir. 4/13/18), 249 So. 3d 857, 859, writ denied, 2018-0945 (La. 10/29/18), 255 So. 3d 575. Former Louisiana Supreme Court Chief Justice Bernette Joshua Johnson penned an opinion stating her reasons for dissenting from the Louisiana Supreme Court’s denial of VOTE’s writ application. The dissent is available here: <https://www.voiceoftheexperienced.org/s/EN-15-DISSENT.pdf>

[16] In rare circumstances someone will receive a “split sentence” of prison followed by probation time. In that situation, someone will be ineligible to vote until 5 years of that probation has passed or they have completed their sentence, whichever happens sooner. Because split sentences are uncommon in Louisiana, nearly all people on probation are eligible to vote.

[17] La. R.S. 18:102(A)(1). Also see Act 636 (2018), available here: <https://www.legis.la.gov/legis/ViewDocument.aspx?d=1103409>.

[18] In a 2019 news article, Secretary of State R. Kyle Ardoin described the need for a legislative fix as follows: “‘When [the Legislature] approved [Act 636], they didn’t address all sections of the state election code that pertain to voting rights. That’s made it harder to implement the changes and more cumbersome for both the Department of Corrections and local registrars,’ he said. ‘For example, under the new law, it appears people newly sentenced to probation who never go to prison do not lose their voting rights. Other laws on the books conflict with this provisions. Starting March 1, when someone lands on probation but isn’t sent to prison, their local registrar of voters will be obligated to place them on a suspension list for three weeks before striking them permanently from the voter rolls. The offender will get a letter alerting them to the fact that they may lose their right to vote. New probationers will then have to go into the registrars’ office with paperwork from their probation officers to ensure they don’t lose their voting rights,’ Ardoin said. ‘If they are registered to vote and don’t take such a step, they will be removed from the voter rolls under prior state law,’ he said.” From Julia O’Donoghue, *Louisiana will be ready for felon voting rights change, officials say*, NOLA.com, The Times-Picayune, (Feb. 14, 2019, updated Jul. 22, 2019), available here: <https://www.nola.com/news/2019/02/louisiana-will-be-ready-for-felon-voting-rights-change-officials-say.html>.

[19] It was not clear whether “incarcerated pursuant to the order” included jail time following a violation of supervision without revocation or jail time while awaiting sentencing.

[20] Act 127 makes clear that “incarcerated pursuant to the order” means “actual confinement in a correctional facility,” further clarifying that people on probation who have never been “actually confined” in prison are eligible to register and vote and that jail time for a violation of supervision or awaiting sentencing does not affect one’s voting rights. See Act 127 (2021), available here: <https://www.legis.la.gov/legis/ViewDocument.aspx?d=1234515>.

[21] The September 21, 2022 letter from Secretary Ardoin, obtained through a public records request, states: “No additional documents are required to register to vote for new registrants who may have had prior felony convictions (La. R.S. 18:02(A)(1)(b))). [sic] If, after registration, it is determined that they have a prior conviction and were incarcerated under an order of imprisonment within the last five years, then you will need to send them the twenty-one day notice pursuant to La. R.S. 18:176. . . . As a reminder, Act 127 did not change the reinstatement process for suspended voters. In order to be reinstated, a suspended voter must continue to provide ‘documentation from the appropriate correctional official . . . .’” See Letter from Secretary Ardoin to Registrars of Voters (Sept. 21, 2022) (emphasis in original) (“Secretary Ardoin’s Letter”), available here: <https://www.voiceoftheexperienced.org/s/EN-20-SOS-TO-ROVS.pdf>

[22] See R.S. 18:171(C), governing the “ineligible lists,” and R.S. 18:171(B)(2), which allows the Department of Corrections to directly send voter eligibility information (e.g., the Voter Eligibility Certificate) to a parish registrar of voters. R.S. 18:171 is available here: <https://www.legis.la.gov/Legis/Law.aspx?d=81496>. Also see Act 127 (2021), available at: <https://www.legis.la.gov/legis/ViewDocument.aspx?d=1234515>.

[23] See R.S. 18:171(B)(1) and (2), governing the direct exchange of voter eligibility information between the registrars and the sheriffs, Department of Corrections, and district attorneys, available here: <https://www.legis.la.gov/Legis/Law.aspx?d=81496>; and R.S. 18:171.1, governing the exchange of voter eligibility information between the U.S. Attorneys and the Secretary of State, available here: <https://www.legis.la.gov/Legis/Law.aspx?d=81497>.

[24] See Department of Public Safety and Corrections, Regulation No. IS-F-3 (Aug. 1, 2022) (“DOC IS-F-3 Regulation”), available here: [https://www.voiceoftheexperienced.org/s/EN-24-EN-29-DOC-REG\\_8-24-22\\_IS-F-3.pdf](https://www.voiceoftheexperienced.org/s/EN-24-EN-29-DOC-REG_8-24-22_IS-F-3.pdf)

[25] This number – the estimate for citizen voting-age population registration rate – is drawn from Table 4a, Voting and Registration in the Election of November 2020, Press Release Number P20 Tables, U.S. Census Bureau (Apr. 2021), available here: <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>.

[26] See *State v. Ctr. for Tech & Civic Life*, 2021-670 (La. App. 3 Cir. 3/30/22), 350 So. 3d 534, 548, writ denied, 2022-00721 (La. 6/28/22), 341 So. 3d 568.

[27] See R.S. 18:58, available here: <https://www.legis.la.gov/Legis/Law.aspx?d=81654>.

[28] Survey documents are on file at Advancement Project. For a similar survey, see Jessie Allen, *Documentary Disenfranchisement*, 86 Tul. L. Rev. 389 (2011).

[29] Louisiana currently disenfranchises a small subset of people on supervision, including people serving split sentences (meaning, they served a period of imprisonment after which they were released onto probation supervision and have not yet completed five years on probation), people serving a felony probation sentence following a sentence to imprisonment in the DOC’s re-entry court program, and people convicted of election fraud and other election-related crimes. See La. Const. Art. I, sec. 10(A); R.S. 18:2(8); R.S. 18:102(A)(1); DOC Internal Regulation No. IS-F-3 (Aug. 1, 2022), available here: [https://www.voiceoftheexperienced.org/s/EN-24-EN-29-DOC-REG\\_8-24-22\\_IS-F-3.pdf](https://www.voiceoftheexperienced.org/s/EN-24-EN-29-DOC-REG_8-24-22_IS-F-3.pdf)

[31] See Secretary Ardoin's Letter at page 1.

[31] Shannon, S. K., Uggan, C., Schnittker, J., Thompson, M., Wakefield, S., & Massoglia, M. (2017). The growth, scope, and spatial distribution of people with felony records in the United States, 1948–2010. *Demography*, 54(5), 1795-1818.

[32] Enamorado, T., Fifield, B., & Imai, K. (2019). Using a probabilistic model to assist merging of large-scale administrative records. *American Political Science Review*, 113(2), 353-371.