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"Did Disfranchisement Laws Help Elect President Bush? A Closer Look at the Characteristics and Preferences of Florida's Ex-Felons"

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DID DISFRANCHISEMENT LAWS HELP ELECT PRESIDENT BUSH?
NEW EVIDENCE ON THE TURNOUT RATES AND CANDIDATE PREFERENCES OF FLORIDA'S
EX-FELONS*

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"As frank as I can be, we're opposed to [restoring voting rights] because felons don't tend to vote Republican."
--Marty Connors, Chairman, Alabama Republican Party (Krajick 2004)

"One of the Republican Party's major successes over the last few decades has been to persuade many of the working poor to vote for tax breaks for billionaires."
--Nicholas Kristof, *New York Times Columnist*, (Kristof 2004)

In the last two presidential races, voters gave almost equal support to Democratic and Republican candidates; in 2004 less than 2.5 percentage points separated President Bush and Senator Kerry and the margin in 2000 between then-Governor Bush and Vice-President Gore was less than half a percentage point. Even more startling, as shown in Table 1, in 2000, the margin between Vice-President Al Gore and Governor George W. Bush was less than 6000 votes in four states. In this contentious political climate voting rights and participation have taken on even greater significance and more Americans are paying attention to how policies affecting offenders in turn affect the electorate. To date, this concern is reflected by the emerging debate over the disfranchisement of felons, an issue that has received much attention from interest groups, media outlets, and politicians. In particular, much of this attention was directed at Florida, a state that permanently disfranchises individuals convicted of felonies. In 2004 alone, the *New York Times* published at least ten articles and editorials calling for the end of felon disfranchisement, citing among other reasons the belief that the results of the 2000 presidential election would have been reversed if Florida's disfranchised ex-felons had the right to vote.

State	Winner	Number of Votes
New Mexico	Gore	366
Florida	Bush	537
Iowa	Gore	4144
Wisconsin	Gore	5708
Oregon	Gore	6765

Table 1: Margin of Victory in 2000 Presidential Election, Selected States.

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This paper re-examines the impact of Florida's restriction on ex-felon voting on the outcome of the 2000 Presidential election. It argues that untenable assumptions about the political behavior of ex-offenders, coupled with the tendency to overlook the impact of policies other than disfranchisement, have led previous researchers to conclude that disfranchisement laws changed the outcome of the 2000 Presidential election. Specifically, previous research *overestimates* the turnout rate of Florida's ex-felons and *underestimates* the share of the vote George W. Bush would have won among the ex-felons of that state. Despite the fact that disfranchisement laws disproportionately affect black men, in many states, white men comprise the majority of the disfranchised population. Examining support for Democratic candidates since 1980 among people with characteristics similar to those of offenders shows that white men overwhelmingly supported Republican presidential candidates in every election except during the Clinton years. Because the majority of ex-felons in Florida are white men, it is possible that Bush would have won that state in 2000 even in the absence of ex-felon disfranchisement laws.

To support this claim, this paper simulates electoral outcomes in Florida under scenarios consistent with the turnout rates and candidate preferences in 2000 of ex-felons in Georgia and North Carolina, two southern states that do not disfranchise ex-felons. The analysis considers evidence on voter turnout and party preferences from the 2002 General Social Survey as well as actual data on the turnout and party registration of ex-felons in Georgia and North Carolina, producing more realistic estimates of the political behavior of Florida's ex-felons. The analysis relies on data from the Florida Department of Corrections to produce accurate counts of the number of ex-felons living in Florida at the time of the election by race and gender.

Based on the simulated election outcomes, the ex-felon population in Florida would have favored President Bush in 2000. Assuming that ex-felons supported Vice-President Gore at rates

similar to GSS respondents with at most a high school diploma, Bush would have defeated Gore by averages of 13,080 and 20,470votes, assuming turnout rates of ten and fifteen percent, respectively. If ex-felons instead supported Gore at rates similar to GSS respondents with family incomes under $25,000, Bush still could have expected to receive a majority of ex-felon votes, winning on average by 4,980 votes with ex-felon turnout rates of ten percent and 7,301 votes with ex-felon turnout rates of fifteen percent. Under no circumstances did the results obtain statistical significance, thus making it impossible to reject the null hypothesis that Vice-President Gore would have defeated President Bush in 2000 in the absence of Florida's ex-felon disfranchisement policy.

The argument proceeds first by examining the origins of the conventional wisdom that ex-felons favor the Democratic Party. Next, this conventional wisdom is challenged with evidence from contradictory research. The next section begins the effort to pinpoint the candidate preferences of ex-felons by race and gender, presenting evidence from Georgia, North Carolina, and national surveys. These numbers are then used to simulate Florida's presidential vote margin for the 2000 election, showing that President Bush is the likely winner under several scenarios. Then, alternative scenarios are considered in order to find out the circumstances under which a Gore victory was more likely. Finally, the paper ends with a discussion of this finding, reflecting on disfranchisement laws generally and whether they really "matter" for democracy.

Origins of the Conventional Wisdom

When thinking about the relationship between criminal justice and democracy, most journalists, scholars, and advocates tend to focus on disfranchisement laws, arguing that such policies prevent a large number of offenders—nearly five million—from voting in federal elections (Manza and Uggen 2006). Moreover, these policies disproportionately affect minority and

poor men who traditionally support the Democratic Party (Harvey 1994). The net effect of disfranchisement laws is thus a loss of Democratic votes. As shown by the quotations that begin this paper, this belief is widely shared by party officials and social scientists alike.

Two theories support these claims. The first is based on historical evidence that disfranchisement laws represent a racially-motivated attempt to prevent blacks from supporting racially liberal parties and candidates. More support for the conventional wisdom is provided by the belief that any contraction of the electorate (racially motivated or not) tends to help Republicans.

The Racial Threat Hypothesis

If policies restricting the voting rights of offenders disparately affect one racial group or party, it is because such policies were *intended* to do so. Civil penalties disfranchising offenders, like most other restrictions on the franchise in the United States, were born of the effort to restrict the ability of blacks to vote and exert political influence commensurate with their presence in the population. According to V. O. Key, Jr., politics in the southern states can be explained by the persistent threat of black voting power to white political interests such that "the character of the politics of individual states will vary roughly with the Negro proportion of the population" (Key 1949: 5). Work by Blalock, Fording and others confirm that discrimination against minority groups tends to increase as the percentage of minorities in the population grows (Blalock 1967; Fording 1997).

Historical evidence suggests that racial threat did lead to the enactment of laws that prevented voting based on criminal acts, at least in the south. Bunche writes that the list of crimes for which one could be disqualified as a voter coincided with those that were "supposedly peculiar to the Negro's low economic and social status" (Bunche 1973: 21). For instance, Virginia passed a law after Reconstruction disqualifying people convicted for petty larceny (Key 1949).

Mississippi, in an oft-cited court case, designed its criminal disqualification provisions to apply only to those crimes "given rather to furtive offenses than to the robust crimes of the whites" (Ratliff v. Beale as cited in (Behrens, Uggen et al. 2003: 570). The United States Court of Appeals in *Underwood v. Hunter* (1984) found that "discriminatory intent was a motivating factor in the adoption of" Alabama's 1901 criminal disfranchisement statute (730 F.2d 614). The Supreme Court later upheld this decision in 1985 (*Hunter v. Underwood* 471 U. S. 222).

Empirical research confirms the hypothesis that laws disqualifying offenders from voting stem from racial threat. The severity of state-level criminal disfranchisement policies varies according to the representation of blacks in the population (Preuhs 2001; Brown-Dean 2003). More specifically, Behrens, Uggen, and Manza find that the number of non-whites in the prison population is also related to the adoption of severe disfranchisement statutes (Behrens, Uggen et al. 2003).

The Democratic Electorate

Alongside the argument that criminal disfranchisement policies were designed to exclude minority votes, the idea that low turnout favors Republicans contributes to the belief that disfranchisement laws affect elections. Nearly every phenomenon that restricts voting, including bad weather, is thought, often mistakenly, to hurt Democratic candidates (Knack 1994). Legislatures certainly behave as though disfranchisement laws help the Democratic Party; legislatures controlled by Republicans are less likely to repeal such laws than those controlled by Democrats (Conn 2005; Yoshinaka and Grose 2005).

The logic of such arguments is straightforward. Because non-voters usually have lower socioeconomic status than voters, they should be more likely to identify with the Democratic Party as "the traditional champions of the poor and underprivileged" (Grofman, Owen et al.

1999). Institutional arrangements such as registration laws and other impediments dispropor-

tionately restrict voting among minorities and the poor and thus are believed to hurt Democrats

(Piven and Cloward 2000). Increases in turnout, to the extent that the increase comes from in-

creased participation of Democratic occasional- and non-voters, thus should lead to increased

vote share for Democratic candidates (Campbell, Converse et al. 1960).

Challenges to the Conventional Wisdom

If the conventional wisdom were correct, then one should expect to see a relationship

among disfranchisement laws, voter turnout, and democratic vote share (Harvey 1994; Conn

2005; Yoshinaka and Grose 2005). However, the evidence that such policies affect turnout and

electoral outcomes, despite clear legal history in the southern states, is mixed. In an extensive

consideration of this question, Manza and Uggen find that disfranchisement laws prevented hun-

dreds of thousands of felons from voting in 2000 and 2004 and changed the outcomes of one

presidential and seven senate elections (Manza and Uggen 2004). However, these results are

based on estimates of turnout and vote choice of the non-felon population rather than actual of-

fenders. Moreover, Manza and Uggen assume that their results hold when "all other factors are

equal," which requires the assumption that the behavior of parties and other actors would remain

the same in the absence of disfranchisement laws. Grose and Yoshinaka also find consistent evi-

dence that disfranchisement affects turnout in the south (Grose and Yoshinaka 2002). When ex-

tended to the entire nation, however, Miles finds no correlation between disfranchisement regime

and voter turnout across states; Miles argues that these laws have little effect because they dis-

franchise citizens who would not have voted anyway (Miles 2004).[1]

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[1] However, Miles's findings may reflect the fact that his measure of turnout comes from self-reports of Current
Population Study (CPS) respondents. The CPS routinely overestimates turnout; moreover, this over-estimate partly
reflects the fact that the CPS is a survey of household and thereby excludes inmates in group quarters from its esti-
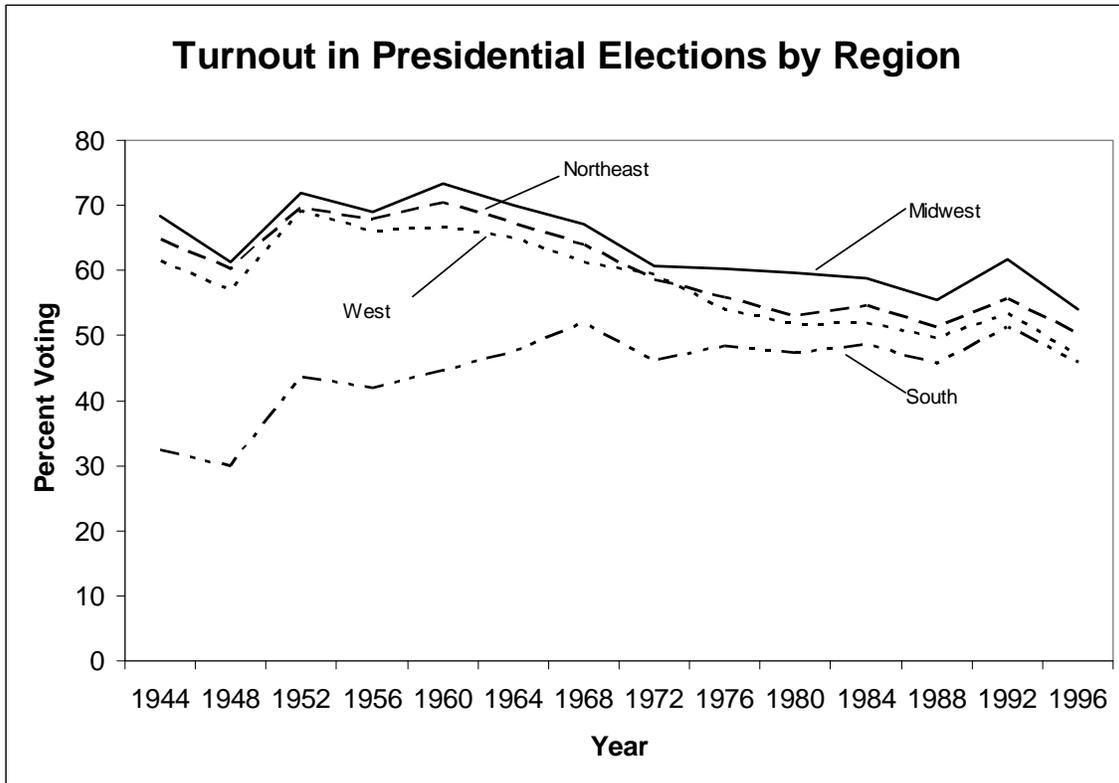
Turnout in Presidential Elections by Region

Figure 1: Turnout in Presidential elections by region, 1944-2000. Data based on Census Bureau estimates of the voting age population and vote totals certified from the Clerk of the House.

Other data call into question the notion that disfranchisement laws suppress turnout. Figure 1 plots voter turnout in presidential elections over time for the northeast, west, midwest, and south, revealing unexpected patterns in turnout as a percent of the voting age population over time. For instance, in the south, the region with the most severe disfranchisement laws, voter turnout appears to have remained stable despite the increase in the size and scope of the criminal justice system over the past three decades. In contrast, turnout in the remaining regions of the nation declined substantially. This pattern is even more puzzling given the fact that incarceration rates rose monotonically across all four regions over this period, most dramatically in the southern states (Figure 2).

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mates of turnout. By excluding a large proportion of the disfranchised population from the analysis, Miles is, in effect, estimating the effect of disfranchisement laws on the voter turnout of people who are not disfranchised.
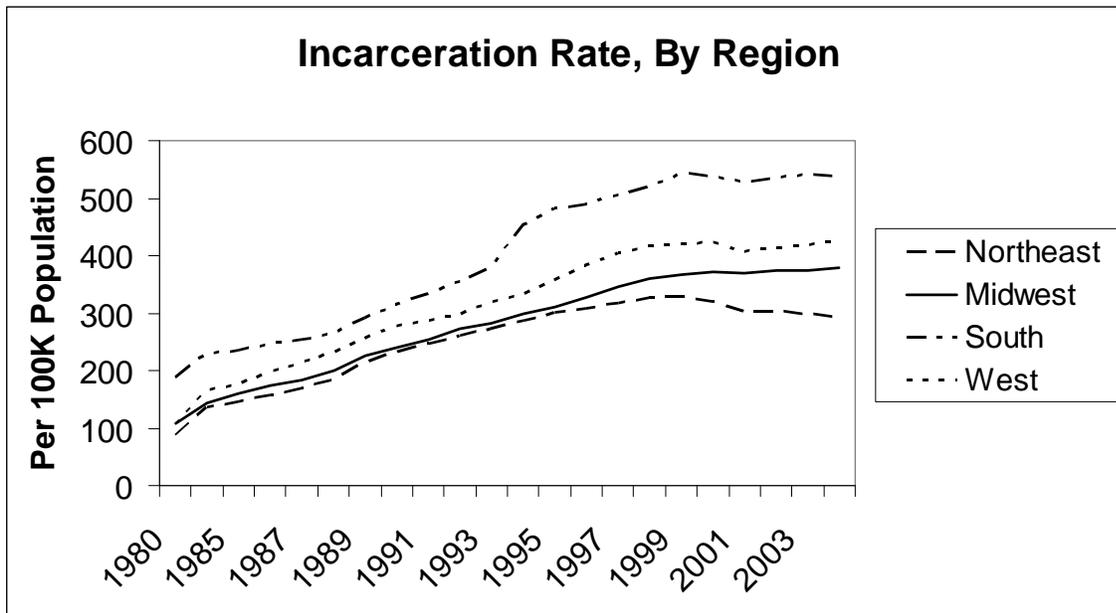
Figure 2: Incarceration per 100,000 adults since 1980, by region. Source: U. S. Bureau of Justice Statistics.

Why do the data fail to support unequivocally the idea that disfranchisement laws suppress turnout and Democratic vote share? The most obvious answer is that such an idea rests on faulty assumptions. For instance, it is not altogether clear that racial motivations explain the presence of disfranchisement laws outside the south or that legislators and policymakers accomplish what they set out to do even when such motivations are present. Policymakers may have short time horizons that prevent them from seeing the long-term effects of their actions (Pierson 2004). Moreover, unexpected changes in the environment such as market downturns or demographic shifts may affect policies in ways unintended by policymakers (Pierson 2004). As a result of these limitations, the actual consequences of policies may fail to correspond to the purposes and expectations of their creators at the time of implementation.

The discrepancy between the conventional wisdom and the evidence may also reflect the fact that previous research fails to consider the multiple obstacles that prevent voting among offenders in addition to poverty and disfranchisement. As Burch shows, being convicted of a

crime incurs many consequences such as difficulties in finding jobs, disruptions in social net-works, and the adoption of anti-government attitudes that further exacerbate the already-low turnout of ex-felons (2007). Legal disfranchisement thus represents the last step, the final impediment to political participation for people with criminal backgrounds. Turnout among ex-offenders and people serving their sentences is extremely low even among citizens who are not disfranchised. Burch shows that, depending on the state, as many as 95 percent of people with criminal convictions did not vote in 2000, despite the fact that they could have (2007). Turnout by offenders adds less than one-half of one percent to the vote totals in states with more lenient disfranchisement policies; it is unlikely that regressions with a sample size of fifty states will have the power to detect such small effects.

Finally, it is also important to note that disfranchisement laws do not always correspond to disfranchisement rates in a linear fashion. The number of people who are disfranchised in a state depends not only on the severity of the disfranchisement policy, but also on crime rates, policing practices, and legal processing as shown briefly in Table 2. For example, even though they do not disfranchise ex-felons, in both Georgia and Texas a higher fraction of the population is disfranchised than in Nevada and Washington, two states that disfranchise all ex-felons. Louisiana has a higher disfranchisement rate than North Carolina, despite the fact that Louisiana only disfranchises inmates while North Carolina disfranchises all felons. Similarly, New York and California both have higher disfranchisement rates than West Virginia. Much of literature on disfranchisement and turnout fails to account for the fact that disfranchisement laws do not operate independently of a state's criminal justice system in the sense that many of these studies treat the disfranchisement law rather than the disfranchisement rate as the variable of interest (Grose and Yoshinaka 2002; Miles 2004).

		Disfranchisement Laws	
		Harsh	Lenient
Criminal Justice System	Harsh	High Disfranchisement Rate	Moderate to High Disfranchisement Rate
	Lenient	Moderate to Low Disfranchisement Rate	Low Disfranchisement Rate

Table 2: Interaction between disfranchisement laws and criminal justice system.

The Candidate Preferences of Non-Voters

Even if one accepts the claim that disfranchisement prevents voter turnout, it is not altogether clear that a majority of people barred from the polls would have voted for Democrats or expressed preferences that were otherwise different from those of eligible voters. Most criminal offenders are poor, uneducated males (Correctional Populations in the United States, 1997 2000; Harlow 2003; "Criminal Offenders Statistics" 2004). Is this group more likely to vote Democratic? Most research today says yes; poor men vote their class interests, so lower class voters are more likely to support Democratic candidates (Campbell, Converse et al. 1960; Tucker, Vedlitz et al. 1986; Erikson 1995; Piven and Cloward 2000; Stonecash 2000; Brewer and Stonecash 2001; Bartels 2005). However, as the Kristof quotation at the beginning of this paper points out, "One of the Republican Party's major successes over the last few decades has been to persuade many of the working poor to vote for tax breaks for billionaires" (Kristof 2004). Many other observers often lament the propensity of white lower class voters to vote seemingly against their own class interests in favor of Republicans (DeNardo 1980; Nagel and McNulty 1996; Frank 2004; Hillygus and Shields 2005).
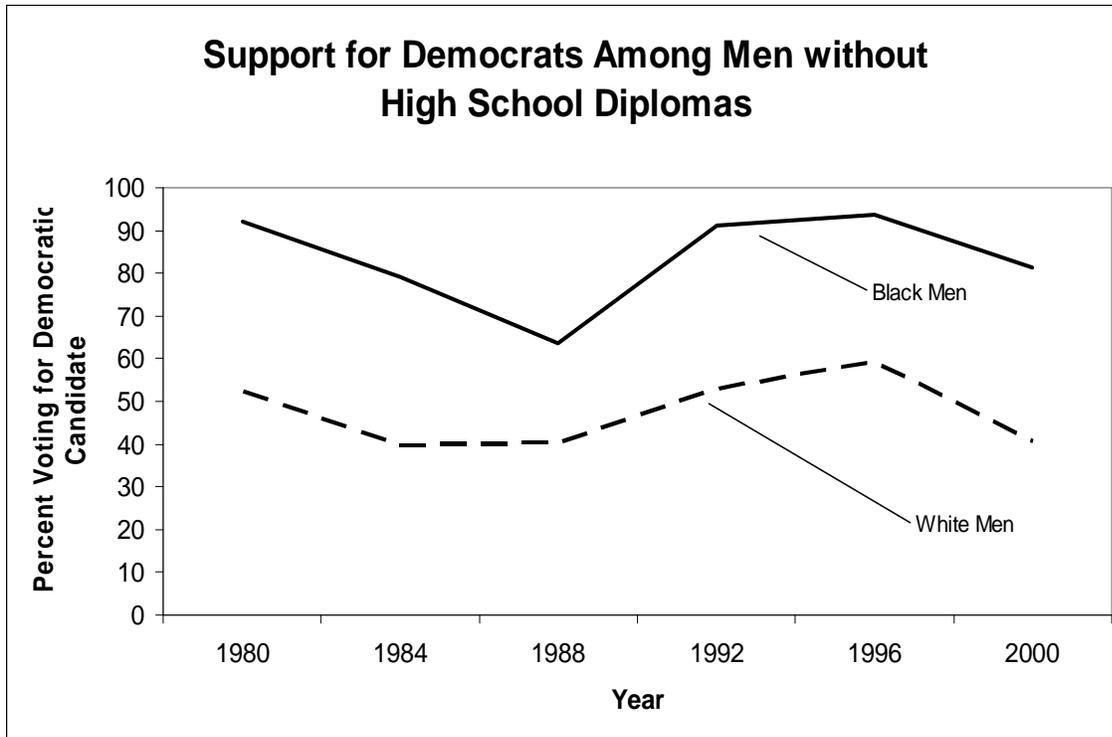
Support for Democrats Among Men without High School Diplomas

Figure 3: Preference for Democratic Presidential candidates among males without high school diplomas, by Race, 1980-2000. Source: General Social Survey Series.

As shown in Figure 3, although black male voters with low socioeconomic status consistently support Democratic candidates, white men in recent elections tended to support Republican presidential candidates. The exception to this rule is Bill Clinton, who enjoyed high levels of support among men of both races. Examining the 2004 American National Election Study (Table 3) also reveals that more white men at the bottom of the income distribution reported voting for President Bush than for Senator John Kerry, the Democratic candidate. In fact, white men across the income distribution supported Bush at higher rates than Kerry in that survey. These findings call into question Manza and Uggen's finding that 70-80 percent of disfranchised felons would have supported Kerry in the 2004 election. Instead, this figure is probably much lower in many states depending both on the ratio of whites to blacks in the disfranchised population and the differential rates of turnout among Democratic and Republican supporters.

Income Level	Percent of White Men Voting For Kerry
Below 17th Percentile	30.6%
	(0.472)
17th – 33rd Percentile	49.8%
	(0.508)
Middle Third	39.7%
	(0.492)

Table 3: Percent of white men voting for Senator Kerry in 2004 general election. Source: American National Election Studies (std. deviations in parentheses).

Theory

The presence of so much conflicting evidence suggests a re-examination of whether disfranchisement laws changed the electoral outcome in Florida in 2000. In order for disfranchisement laws to have changed the outcome, these laws need to have prevented some supporters of the losing candidate from voting who otherwise would have, and those voters would have needed to turn out at high enough rates to offset the gains of other party from its disfranchised supporters. Thus, two phenomena need to be theorized and tested: first, the effects of disfranchisement on ex-felon turnout and second, the party preferences of disfranchised citizens.

Ex-Felon Turnout

The electoral effect of rendering a portion of the population ineligible to vote depends on whether or not these potential voters would have voted but for the legal provision that excludes them from the electorate. In contrast to "core voters," who vote in all national elections, and "peripheral voters," who vote only occasionally "when they are stimulated by the political circumstances of the moment," almost nothing will motivate non-voters to go to the polls (Campbell 1960: 400). One could argue that disfranchising offenders would have little effect because

offenders are drawn from the population of people who would not vote even if they had the opportunity to do so (Campbell 1960; Miles 2004).

The findings from previous research show that most criminal offenders are at best, peripheral voters. Even before their involvement with the criminal justice system, less than seventeen percent of North Carolina's probation population and eight percent of its prison population voted in the 2000 presidential election (Burch 2007). The conviction further suppresses participation to the point where almost no offenders vote while serving a sentence, even if they are not disfranchised. Among former felons and misdemeanants, turnout wass still quite low, ranging from ten to twenty-four percent across Georgia, North Carolina, Michigan, and Missouri (Burch 2007). To reiterate an earlier point, low turnout among offenders means that even in states where offenders have the right to vote, the number of offenders that do vote will be very small relative to the size of the state's electorate. A regression with fifty states is unlikely to pick up fraction of a percentage point variation in turnout across states with different disfranchisement policies. As a practical matter, any election would have to be very close for disfranchisement laws to play a role in its outcome, as is the case with Florida.

A Working Model of Offender Preferences

In very close elections, however, disfranchisement laws may determine the outcome if, in the absence of the law, a large enough number of the loser's supporters would have turned out to vote. The key question therefore asks whether disfranchised voters favor the losing candidate or Democrats or Republicans more generally. Because most offenders are men, the effects of disfranchisement depend primarily on their political behavior. Black men across classes consistently support the Democratic Party and therefore it is expected that disfranchised blacks would overwhelmingly support Democratic candidates (Dawson 1994.). For whites, however, the an-

swer to this question is still unsettled in the literature and remains quite controversial as noted above. Bartels finds consistent support for the Democratic Party among lower class whites throughout the last three decades; however, one should note that his findings do not disaggregate by gender (Bartels 2005). Other empirical evidence suggests lower rates of support for the Democratic Party among white male offenders. As discussed previously, evidence from the General Social Survey Series and the American National Election Studies suggests that poor, uneducated white men showed consistent support for Republican candidates in every election since 1980 in which Bill Clinton was not a candidate. Likewise, Manza and Uggen find that people who have been incarcerated or arrested are more likely to describe themselves as Independents and less likely to describe themselves as Democrats (Manza and Uggen 2006). People with criminal backgrounds were also more likely to support Jesse Ventura rather than major party candidates in Minnesota's 1998 gubernatorial election (Manza and Uggen 2006). Anecdotal evidence such as that found in Frank (2004) also calls into question the idea that lower class whites vote Democratic (Frank 2004).

Examining voting by party in North Carolina further supports the idea that white male offenders support Republicans. Because North Carolina has closed primaries, it is possible to use these data to get a sense of how offenders would vote when given the opportunity. [2] Table 4 shows that only 5.8 percent of the 139,000 formerly disfranchised felons voted in the 2000 election. [3] Recidivism does not explain this low turnout—these are offenders who had no further contact with the criminal justice system after 2000. However, despite the overall size of the potential ex-felon electorate, the margin between Democrats and Republicans was only 2,777

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[2] Although party registration is not partisan identification or vote choice, it is the best information available on the preferences of offenders Finkel, S. E. and H. A. Scarrow (1985). "Party Identification and Party Enrollment: The Difference and the Consequence." Journal of Politics **47**: 620-647.
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[3] See appendix for a discussion of procedures used to match offenders to voter records.

votes, ignoring independents. Looking more closely at these data, it becomes clear that the racial composition of the disfranchised population is closely tied to party registration and accounts for the slim Democratic victory among North Carolina offenders. The support for Democrats in large part comes from blacks, 84 percent of whom are registered Democrats. In contrast, most white offenders are registered as Republicans or Independents. The breakdown of party registration by race among offenders who voted closely mirrors that of the rest of voters. In North Carolina overall, 84 percent of blacks were registered Democrats, compared with 35 percent of whites. A high number of whites in North Carolina register as independents both in the general and offender populations, perhaps reflecting the fact that North Carolinians elect Democrats at the state level and Republicans for president.

Although there is no way of knowing the true preferences of disfranchised voters for this analysis, it is possible to make some plausible assumptions about vote choice based on the available evidence. Criminal offenders do not vote at the same rates as people with similar backgrounds who have not been convicted of crimes. However, it is possible that criminal offenders would have the same preferences as non-offenders who share their demographic characteristics. There is a consistent finding that in general, non-voters tend to have the same preferences as voters, such that registration laws have little effect on the policy preferences of the electorate (Rosenstone and Wolfinger 1978). Applying this logic to disfranchised offenders, then, one should expect the candidate preferences of offenders to mirror those of other people with the same race, gender, income, and educational level. The observed turnout and preferences of North Carolina offenders described in the preceding paragraph fit this pattern well.

Race of Offenders	Number Voting, by Party
Black Ex-Felons	3,111 (D)
	131 (R)
White Ex-Felons	1,708 (D)
	1,911 (R)
Net:	2,777 (D)

Table 4: Voting by Party Registration among North Carolina Offenders, 2000 General Election. Source: North Carolina Department of Corrections; North Carolina State Board of Elections.

<u>Hypothesis</u>

With respect to vote choice, most observers believe that disfranchisement decreases Democratic vote share. However, this claim is inconsistent with the evidence. Blacks with low income and education are likely to support the Democratic Party; the same should be true for black offenders. However, because many whites of low socioeconomic status would have voted for Republicans in recent elections, one should expect white offenders to demonstrate less support for Democratic candidates. Thus, the proportion of the disfranchised population that supports the Democratic candidate in any state is a function of the racial makeup of the disfranchised population and the preferences of white offenders. By this logic, any state with a large number of white male current and former offenders has a high likelihood of favoring *Republican* candidates in national elections. As a state in which most ex-felons are white males, it is possible that the ex-felon population in Florida would have supported George W. Bush in 2000 had they been allowed to vote.

<u>Research Design</u>

How would one test these admittedly controversial claims? Issues of data availability make any analyses of these hypotheses problematic. Apart from the usual problems of counterfactual analysis described in previous chapters, the analysis is also limited by a lack of information about the exact number of ex-felons still living in each state. It also is not known whether current or former offenders voted or for whom they voted if they did.

Previous studies solve these problems in two ways. The first involves a cross-state analysis in which variation in turnout across states is predicted by the severity of disfranchisement laws (Grose and Yoshinaka 2002; Miles 2004). This analysis poses difficulties not only because of the small sample size but also because any study of variation in voter turnout across states needs to take into account other structural and demographic factors that affect both voter turnout and disfranchisement. The possibility of omitted variable bias remains even in the most sophisticated model, as states differ in thousands of ways that are not readily apparent to researchers.

The second way of managing these data problems is to attempt in-depth studies of individual states, calculating the number of disfranchised offenders and their likelihood of voting (Manza and Uggen 2004; Manza and Uggen 2006). This kind of analysis is useful for shedding light on how context shapes the effects of disfranchisement. However, such a research design could be disadvantageous to the extent that estimating the number of disfranchised offenders, their likelihood of voting, and turnout requires one to make several assumptions. For instance, one could argue that Manza and Uggen's model of turnout and Democratic share of the vote among current and former felons is too high because they use surveys of the general population to approximate the voter turnout of offenders.

This paper will focus on estimating turnout and vote choice in Florida, simulating electoral outcomes under several hypothetical scenarios. Unlike previous attempts, the in-depth analysis of Florida will incorporate information on the voter turnout of actual offenders rather than the general population to calculate turnout rates among current and former offenders. These state-level data give a sense of the likelihood of turnout and vote choice among current and former offenders, and as such, are useful for thinking about counterfactual scenarios for what would have happened if Florida allowed ex-felons to vote in the 2000 Presidential election.

Data

Several sources were consulted in order to compile evidence for this study. This study employs the data from state boards of election and departments of correction in Georgia, North Carolina, and Florida.

The number of ex-felons in Florida, Georgia, and North Carolina are calculated from department of corrections data files from each state and represent actual counts of current and former felons.[4] Likewise, turnout and party registration data in North Carolina and Georgia were calculated by matching department of corrections files to voter registration and history lists in each state.[5] The departments of correction maintain highly detailed data on all offenders convicted of felonies and misdemeanors who are sentenced to state supervision in prison or in the community through probation or parole. The data do not include offenders sentenced to serve time under federal, municipal or county authorities such as county jails such that only offenders incarcerated in state prison and offenders on state-supervised probation or parole are in the records. In all three states, all offenders accused of felonies are tried, convicted, and punished by state authorities, such that the files represent a complete list of people who have or are being su-

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[4] Analyses using offender counts weighted by U. S. life expectancy by race and gender are included in the appendix.
[5] See appendix for information on matching offender records to voter files.

pervised for felony convictions. As a result, these findings underestimate extent to which citizens in each state interact with criminal justice authorities, and cannot be generalized to those citizens who are convicted of felonies by federal authorities.

The offender data are joined to voter registration and history data containing information on all registered voters in each state. These files are updated regularly by each state's respective Secretary of State and contain the last name, first name, and birth date for all voters; North Carolina and Georgia also maintain data on the race and/or gender of voters. The states also provide voter histories though this information is available in Georgia only for voters who have not been purged due to the nature of the files.

To get a sense of how people with characteristics similar to that of offenders would have voted, this study will present data from the 2002 wave of the General Social Survey cumulative data file. This survey provides self-reports of whether respondents voted for the Democratic or Republican presidential candidate. The sample used here contains individuals living in the south with incomes below $25,000 per year or with up to a high school diploma.

For this analysis, only black and white offenders are considered. Latino offenders are not considered in this analysis primarily due to data constraints. The Florida Department of Corrections only recently began maintaining accurate ethnicity and citizenship data for supervised offenders. In any event, it is unclear which candidate would have been most helped by the inclusion of Latino voters as Florida's large Cuban population was more likely to support President Bush in 2000 (Fraga and Leal 2004). About 7500 of Florida's felons who had finished serving their sentences in 2000 were identified as Hispanic.

Methods

To estimate the effects of disfranchisement on the results of the 2000 presidential race in Florida, counterfactual scenarios based on patterns of turnout and voter preferences in similar states will be presented. First, basic counts of the number of current and former felons in Georgia and North Carolina by race and gender will be presented along with the turnout rates for these populations as calculated in Burch 2007 (Burch 2007). Next, average level of support for Gore and Bush among GSS respondents with low incomes and educational attainment are provided, along with measures of uncertainty for these estimates. Estimates of turnout and Democratic vote share for each race and gender group are then simulated with 10,000 random draws from the normal distribution having means and standard deviations equivalent to those found in the GSS samples or offender populations. The 10,000 hypothetical vote margins and turnout figures are then applied to the counts of Florida ex-felons provided by the Florida Department of Corrections.

Results

As expected, the analysis of Florida provides no evidence that disfranchisement laws helped President Bush win the presidency in 2000.

In-Depth Analysis of Turnout in Georgia, Florida, and North Carolina

Despite the fact that Georgia, Florida, and North Carolina are in close proximity to one another, they differ in surprising ways with respect to their criminal justice systems and thus, disfranchisement. North Carolina historically has been less punitive than both Georgia and Florida; this fact is reflected in Figure 4, which shows that the ex-felon population of North Carolina is considerably smaller than those of Georgia and Florida. Meanwhile, the number of ex-offenders over time looks remarkably similar in Georgia and Florida.
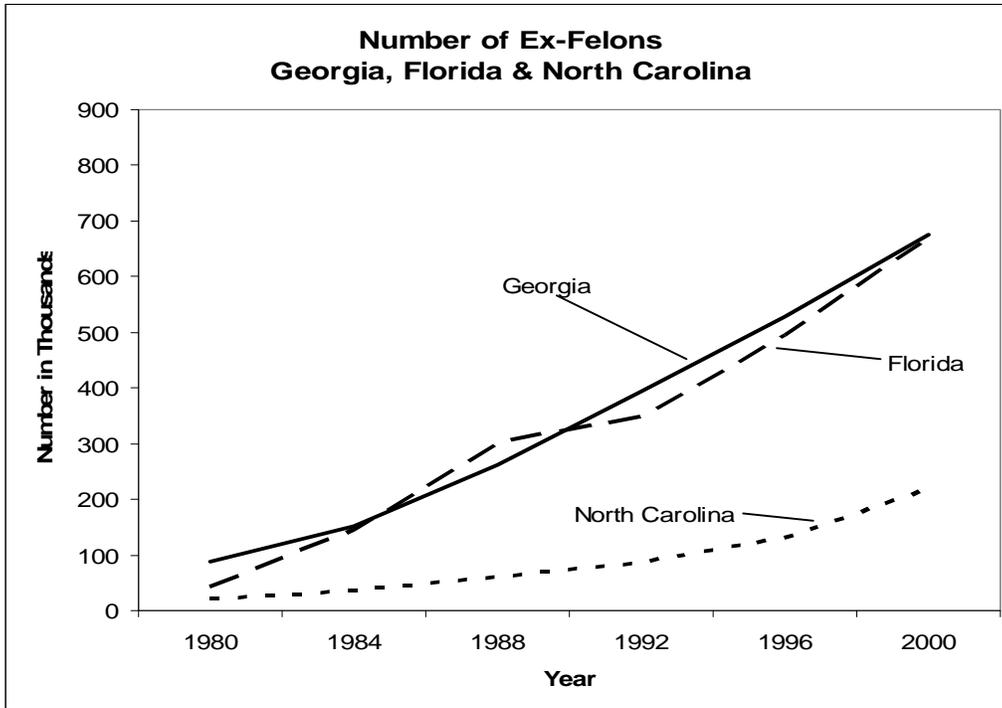
Figure 4: Actual count of ex-felons in Presidential election years. Source: Florida Department of Corrections, Georgia Department of Corrections, North Carolina Department of Corrections.
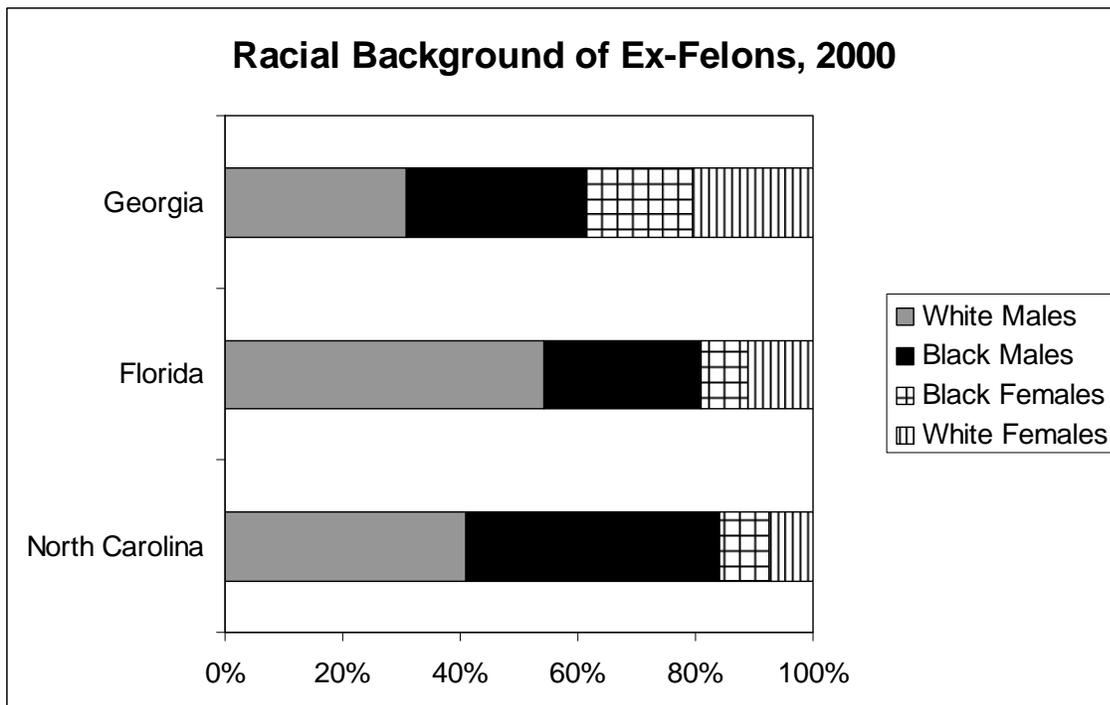

Figure 5: Distribution of ex-felons by race and gender in 2000. Source: Florida Department of Corrections, Georgia Department of Corrections, North Carolina Department of Corrections.

As expected, the ex-felon population is overwhelmingly male (Figure 5). However, the states vary with respect to the racial makeup of the ex-felon population. In Georgia and North Carolina, the ex-felon population is evenly divided between blacks and whites. However, in 2000 in Florida, *more than fifty percent of ex-felons were white males*. As demonstrated in Figure 6, turnout among men varies inconsistently by race, such that in Georgia, white men are less likely to vote than black men (13.9% to 14.4%, respectively), while in North Carolina, the reverse is true (6.3% to 5.7%). Turnout overall was lower in North Carolina than in Georgia. As a result, more blacks voted in Georgia, while more of the votes in North Carolina came from whites. The simulations assume that all racial groups turnout at the same rates for each scenario; results are reported for turnout rates of ten and fifteen percent in order to reflect the range of variation found in Georgia and North Carolina during that election.
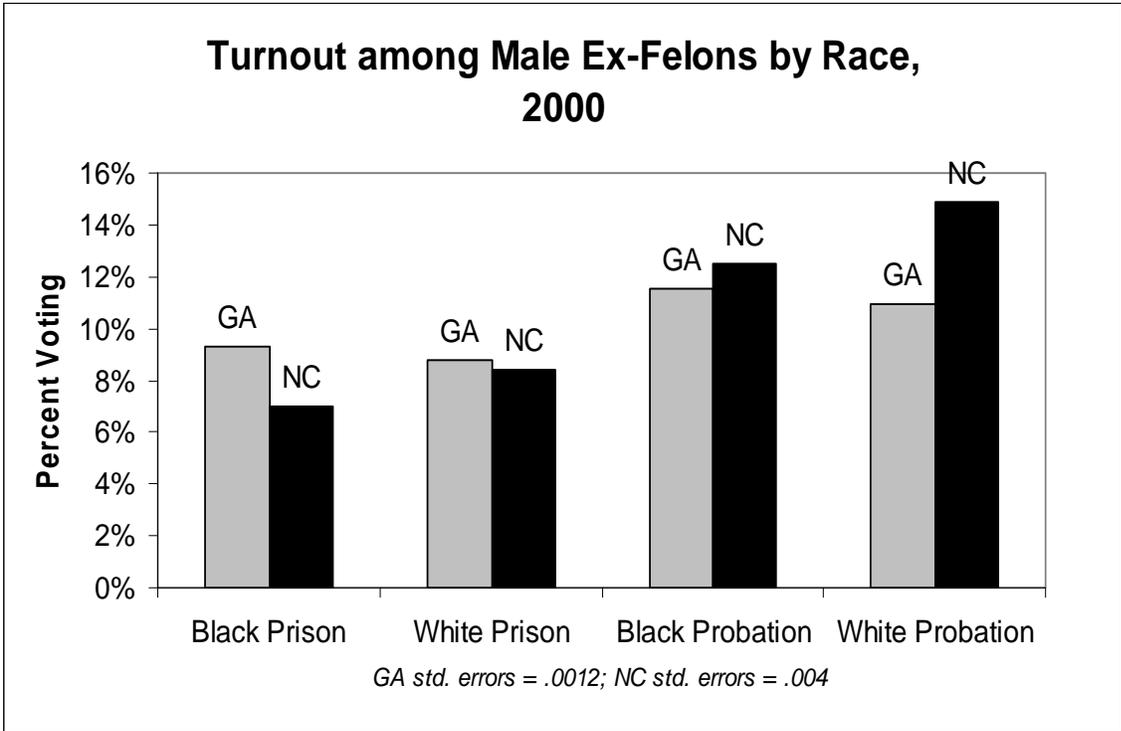
Figure 6: Estimated turnout in 2000 Presidential election. Sources: Georgia Department of Corrections, North Carolina Department of Corrections, Georgia State Board of Elections, North Carolina Board of Elections.

Voter Preferences and the Florida Election

The analysis of candidate preferences among voters on the GSS reveals consistent support for the idea that preferences among people with low incomes and educational attainment differ dramatically by race. While blacks of both sexes voted for Gore in large numbers in the 2000 election, only a minority of whites did so. This finding holds whether class distinctions are based on having attained no more than a high school diploma or having an income below $25,000 (Figure 7) although the actual level of support differs depending on which criterion is used.

With the above information in mind, it is now possible to construct counterfactual scenarios about the outcome of the 2000 Presidential Election. Table 4 presents the simulated outcomes of the 2000 presidential election in Florida under the condition that Florida offenders
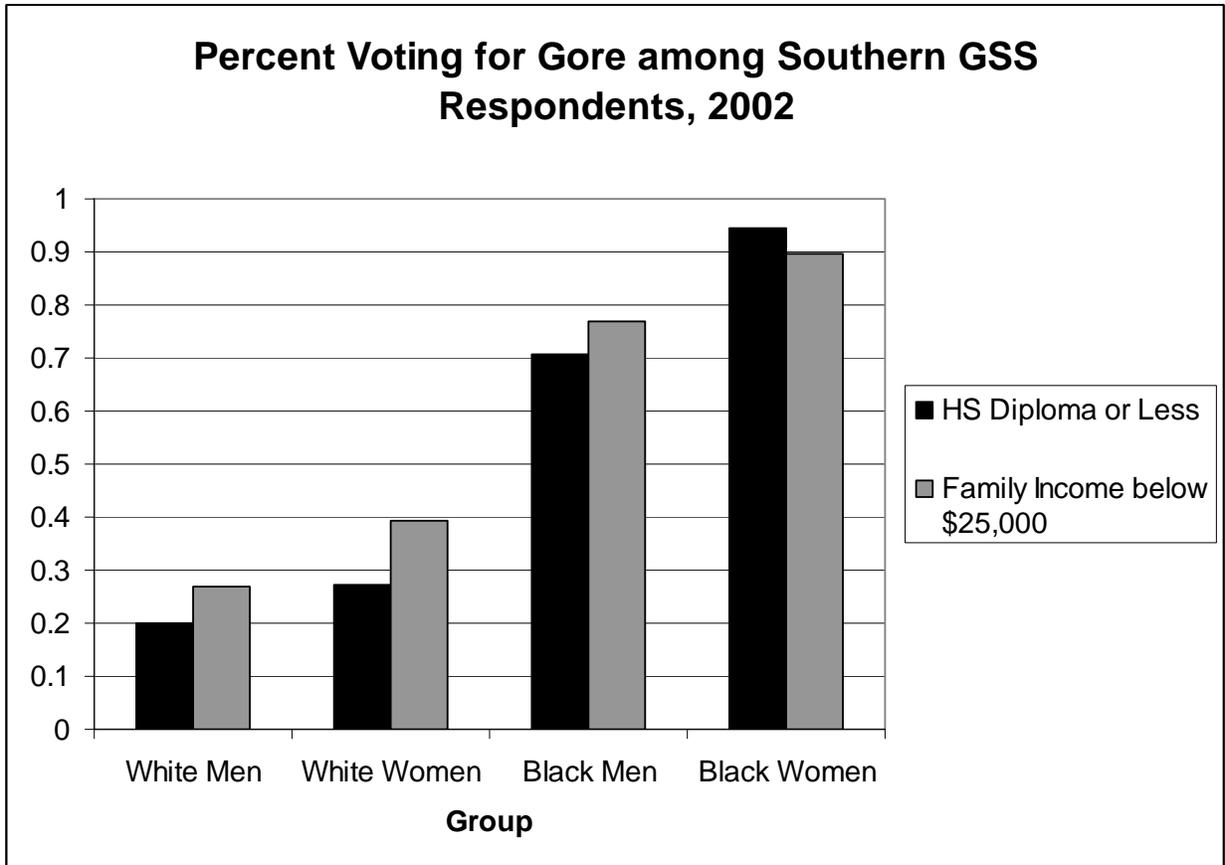
Percent Voting for Gore among Southern GSS Respondents, 2002

Figure 7: Percent of southern GSS respondents who report voting for Vice-President Gore in 2000, by race and gender. Source: General Social Survey.

voted at rates similar to those in Georgia and North Carolina and supported Vice-President Gore at the same rates as GSS respondents with no more than high school diplomas.[6] As shown, if male and female ex-felons in Florida were to vote at the same rates as ex-felons in these other southern states, it is unlikely that Gore would have received the additional votes he needed to win the election. President Bush still would have won in more than 71 percent of the simulated elections under these assumptions; the average margin of victory was 13,080 votes where turnout was ten percent and 20,474 when turnout was fifteen percent. Likewise, simulating the outcomes based on the preferences of voters with incomes under $25,000 as shown in Table 5 reveals about a 57 percent chance that Bush would have won the election if ten percent of ex-

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[6] Please see appendix for simulated outcomes weighted for death rates by race and gender of offenders.

offenders in Florida turned out.[7] The variation across the two sets of results reflects the fact that support for Gore differs slightly between the low income and low educational attainment groups.

High School Diploma or Less

Group	Vote for Gore	Number of Ex-felons	Turnout rate	Expected Bush Vote Margin	Turnout rate	Bush Vote Margin
White Men	0.200	358495	0.1	22046.7	0.15	32801.6
White Women	0.271	73766	0.1	3915.5	0.15	5604.7
Black Men	0.708	177388	0.1	-6852.9	0.15	-10548
Black Women	0.944	51181	0.1	-4011.9	0.15	-6286.5
Expected Bush Vote Margin				15097.23		21571.8
Simulated Bush Vote Margin				13080		20470
Simulated 95% Confidence Interval				-33005.8 to 59360.7		-49910.1 to 91338.8
Percent of Simulated Elections Won by Bush				**71.0%**		**71.6%**

Family Income Below $25000

Group	Vote for Gore	Number of Ex-felons	Turnout Rate	Expected Bush Vote Margin	Turnout rate	Bush Vote Margin
White Men	0.268	358495	0.1	17149.7	0.15	25456.0
White Women	0.393	73766	0.1	2117.1	0.15	2907.1
Black Men	0.769	177388	0.1	-9013.6	0.15	-13788.9
Black Women	0.897	51181	0.1	-3522.7	0.15	-5552.5
Expected Bush Vote Margin				6730.5		9022.6
Simulated Bush Vote Margin				4980		7301
Simulated 95% Confidence Interval				-45547.2 to 54678.4		-68965.9 to 81656.0
Percent of Simulated Elections Won by Bush				**57.5%**		**58.0%**

Table 8: Simulated outcomes for the 2000 Presidential election in Florida, vote choice based on education and income. Results simulated using random draws from the normal distribution with turnout estimates taken from predicted probabilities in Burch 2007 and vote choice estimates from respondents reporting educational attainment of high school diploma or less or yearly incomes lower than $25,000 the 2002 General Social Survey.

However, the point of this exercise is not to provide a definitive answer to the question of what would have happened in 2000 if Florida's ex-felons had been allowed to vote. Rather, this evidence shows that it is impossible to state with certainty that disfranchisement affected the outcome of that election; in fact, it is entirely plausible that allowing ex-felons to vote in Florida would have resulted in a net gain of votes for President Bush. In fact, depending on the assumptions, one can construct counterfactual scenarios favoring either Bush or Gore. It is argued here that the existing evidence supports the outcomes discussed previously. Under what circum-

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[7] See appendix for density plots of simulated outcomes.

stances might Gore have won the election? Table 9 shows the expected values of the vote total under different turnout scenarios (not simulated). As shown, increasing turnout among all groups to 25 percent alters the vote margin, but not the victor, in any scenarios. However, assuming that only ten percent of white ex-felons vote but fifteen percent of black ex-felons vote changes the direction of the outcome to a Gore victory by 75 votes. Conversely, if black ex-felons were to vote at twenty percent and white ex-felons at only fifteen percent, Bush is expected to win. Under different assumptions about candidate preferences, a Gore victory is more likely. As shown in Table 10, changing the support of black ex-felons 100 percent for Gore decreases, but does not erase, Bush's expected margin of victory. However, increasing Gore's support among white ex-felons to 40 percent leads to expected vote margins in favor of Gore. Again, because these margins are not simulated, no confidence intervals are available.

Discussion

Does felon disfranchisement affect democracy? The answer to this question, based on simulated outcomes of the 2000 presidential election, is no. There is not enough evidence to support the hypothesis that Vice-President Gore would have been elected president if Florida's ex-felons had been allowed to vote. Primarily, this finding reflects the fact that the effects of disfranchisement laws are not limited to Democratic supporters. Because poor and uneducated whites were more likely to support Republican candidates in most recent elections, the answer to the question of which party disfranchised voters would have supported is, "it depends." A complete answer to that question would take into account the racial makeup of the disfranchised population and the politics of the time under consideration. For instance, in light of these findings, it makes little sense to argue that Wyoming's disfranchisement of ex-felons particularly hurt the Democratic Party in that state.

All Groups 25 Percent Turnout				
			Preferences of GSS	_Preferences of GSS Income_
Group	_N_	_Turnout rate_	_HS Grads and Below_	_Below $25,000_
White Men	358495	0.25	54311.3	42068.6
White Women	73766	0.25	8983.2	4487.2
Black Men	177388	0.25	-17938.0	-23339.4
Black Women	51181	0.25	-10835.4	-9612.2
E[V] Bush - Gore			**34521.1**	**13604.2**

Blacks more than whites				
			Preferences of GSS	_Preferences of GSS Income_
Group	_N_	_Turnout rate_	_HS Grads and Below_	_Below $25,000_
White Men	358495	0.1	22046.7	17149.7
White Women	73766	0.1	3915.5	2117.1
Black Men	177388	0.15	-10548.0	-13788.9
Black Women	51181	0.15	-6286.5	-5552.5
E[V] Bush - Gore			**9127.8**	**-74.6**

Blacks more than whites				
			Preferences of GSS	_Preferences of GSS Income_
Group	_N_	_Turnout rate_	_HS Grads and Below_	_Below $25,000_
White Men	358495	0.15	32801.6	25456.0
White Women	73766	0.15	5604.7	2907.1
Black Men	177388	0.2	-14243.0	-18564.1
Black Women	51181	0.2	-8560.9	-7582.4
E[V] Bush - Gore			**15602.4**	**2216.6**

Table 9: Direction and margins of victory under different turnout scenarios. Totals represent expected value of Bush – Gore vote margin; totals for each group are calculated rather than simulated.

One also should note that even though the evidence suggests that disfranchisement has not affected past elections, disfranchisement laws may come to matter more in the future, especially if the ex-felon population continues to grow at the same rate depicted in Figure 4. The impact of disfranchisement on future elections is uncertain not only because of the changing size of the disfranchised population, but also because of the changing demography. Although most ex-felons are white in many states, recent cohorts of offenders have become more racially diverse. In Florida, for instance, while black men and women make up only 35 percent of the ex-felon population, 41 percent of people currently being supervised for felony convictions are black.

Blacks 100% for Gore

High School Diploma or Less

Group	Vote for Gore	Number of Ex-felons	Turnout rate	Expected Bush Vote Margin	Turnout Rate	Expected Bush Vote Margin
White Men	0.2	358495	0.1	22046.7	0.15	32801.55
White Women	0.271	73766	0.1	3915.483	0.15	5604.724
Black Men	1	177388	0.1	-17201.8	0.15	-26071.2
Black Women	1	51181	0.1	-4581.1	0.15	-7140.15
E[V] Bush - Gore				**4179.283**		**5194.924**

Family Income Below $25000

Group	Vote for Gore	Number of Ex-felons	Turnout rate	Expected Bush Vote Margin	Turnout Rate	Expected Bush Vote Margin
White Men	0.2683	358495	0.1	17149.66	0.15	25455.99
White Women	0.3929	73766	0.1	2117.068	0.15	2907.102
Black Men	1	177388	0.1	-17201.8	0.15	-26071.2
Black Women	1	51181	0.1	-4581.1	0.15	-7140.15
E[V] Bush - Gore				**-2516.17**		**-4848.26**

Whites 40% for Gore

High School Diploma or Less

Group	Vote for Gore	Number of Ex-felons	Turnout rate	Expected Bush Vote Margin	Turnout Rate	Expected Bush Vote Margin
White Men	0.4	358495	0.1	7706.9	0.15	11291.85
White Women	0.4	73766	0.1	2012.32	0.15	2749.98
Black Men	0.7083	177388	0.1	-6852.98	0.15	-10548
Black Women	0.9444	51181	0.1	-4011.97	0.15	-6286.45
E[V] Bush - Gore				**-1145.73**		**-2792.6**

Family Income Below $25000

Group	Vote for Gore	Number of Ex-felons	Turnout rate	Expected Bush Vote Margin	Turnout Rate	Expected Bush Vote Margin
White Men	0.4	358495	0.1	7706.9	0.15	11291.85
White Women	0.4	73766	0.1	2012.32	0.15	2749.98
Black Men	0.7692	177388	0.1	-9013.57	0.15	-13788.9
Black Women	0.8966	51181	0.1	-3522.68	0.15	-5552.52
E[V] Bush - Gore				**-2817.03**		**-5299.54**

Table 10: Direction and margin of victory under different candidate preference scenarios. Totals represent expected value of Bush – Gore vote margin; totals for each group are calculated rather than simulated.

Finally, disfranchisement also has the potential to affect future elections because it has grown in salience in recent years. To the extent that disfranchisement remains prominent on the public agenda, offenders may be mobilized to vote. In Florida, the aftermath of the 2000 election increased awareness among disfranchised offenders; the repeal of these laws in the spring of 2007 may increase turnout demonstrably in future elections because of this highly politicized environment.

What about New Mexico?

If disfranchisement laws were to affect election outcomes, then such laws would "matter" not only to offenders, but also to political parties. As such, partisans would have instrumental reasons for being concerned about the aggregate effects of disfranchisement, as evidenced by the Alabama Republican Party Chairman quoted at the beginning of this chapter. Lack of electoral impact, however, tends to mean that the effects of disfranchisement laws are ignored.

This point is best illustrated by New Mexico. As noted in Table 1 at the beginning of this paper, Gore's margin of victory in New Mexico was even smaller than that of Bush in Florida. However, no one directed attention to the disfranchisement of offenders in New Mexico. Because most observers believe that disfranchisement favors Democratic candidates, it was thought that the enfranchisement of felons would not have helped President Bush secure victory in that state. That New Mexico's small number of electoral votes could not have decided the presidency may also account for the lack of attention.

There is something problematic about having the importance of disfranchisement determined by its electoral effects. In some sense, this perspective ignores the symbolic and ideological issues raised by this practice. By lessening the electoral stakes of this issue, these findings

may make both Republicans and Democrats more likely to take up the issue of felon disfranchisement based on concerns about fairness or inequality rather than self-interest.

Voting Irregularities in Florida

One glaring omission in the analysis presented here involves the fact that felon disfranchisement in Florida affects more than just people with felony convictions. In 2000, Florida elections officials famously used disfranchisement statutes as a justification for purging thousands of voters from the rolls, despite the fact that many of those purged had no criminal background (Keyssar 2000: 333). In June 2000, the division of elections tried to purge nearly 60,000 people from the voter registration lists (Palast 2001). Blacks and Democrats were represented disproportionately among those purged (Pierre 2001). Purging is not the only questionable practice linked to felony disfranchisement. In Milwaukee, for instance, disfranchisement statutes were used to threaten potential voters with fines and imprisonment if they voted after having been convicted of a felony (Diedrich 2006).

Although the Help America Vote Act of 2002 was designed to prevent such illegal uses of disfranchisement laws, voting irregularities continued to occur in later elections. However, since 2002, thwarted voters have had recourse to provisional ballots, which could be counted after their registration was verified. Another solution to the problem of the disfranchisement of eligible citizens, however, is to eliminate felon disfranchisement laws.

Conclusion

This paper provides startling evidence that even in the absence of ex-felon disfranchisement policies, George W. Bush would have defeated Vice-President Gore in Florida's 2000 Presidential election. This finding contradicts the conventional wisdom that Florida's disfranchised ex-felons would have supported Vice-President Gore in 2000, a belief based on the notion

that disfranchisement laws predominantly affect Democratic voters. However, when one considers the fact that most ex-felons in Florida during that election were white men, then it is less clear that this group would have supported Gore in 2000. Re-examining the election under hypothetical scenarios that are more consistent with the evidence on the turnout and likely vote choice of each racial group makes it impossible to reject the null hypothesis that ex-felon disfranchisement had no effect on the electoral outcome.

However, interpreting these findings as supportive of ex-felon disfranchisement is hasty, because these findings say nothing about whether disfranchisement laws matter for democracy. Florida's disfranchisement law obviously prevented some people from going to the polls; reasonable people disagree as to whether barring ex-felons from the vote is a good or bad thing for society. The findings merely question the role electoral outcomes play as a central consideration in the debate over disfranchisement policies. Are laws restricting the voting rights of ex-felons irrelevant in landslide elections? Or only when such laws keep the "right" candidate from winning?

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Appendix: Procedure for Linking Voter and Offender Records

To create the data sets used for the analysis of offenders, the names of individuals from the state offender files were linked electronically to those found in the voters file in a multi-step process. Because different information was available in each state, the procedures for matching differ; these procedures are summarized in Table A.1. For all states, the name, birth date, and gender were used to match as many offenders as possible.[8] Race was used in the first round of matching for Georgia and North Carolina, the only two states to maintain this information. To account for some typographical errors or slight differences in names, the final round of matching used only the first three letters of the first name rather than the full first name. In cases with potential duplicates in the voter file, offenders were matched to the first available entry although voter history for the duplicate entry was added to the offender record as well.

Criteria	Georgia	North Carolina
Last, First, Birth, Sex, Race	219,784	266,183
Last, First, Birth, Sex	36,764	6,124
Last, First, Birth	--	--
Last, First 3 letters, Birth, Sex	29,666	15,497
Last, First 3 Letters, Birth	--	--
Last, First, Middle Initial	--	--
Unmatched	490,434	532,851
Total	776,648	820,655

Table A. 1: Results of merging voter and offender files.

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[8] In Georgia, only the year of birth was available for reasons of confidentiality, which may result in more errors in linking offenders to voter records.
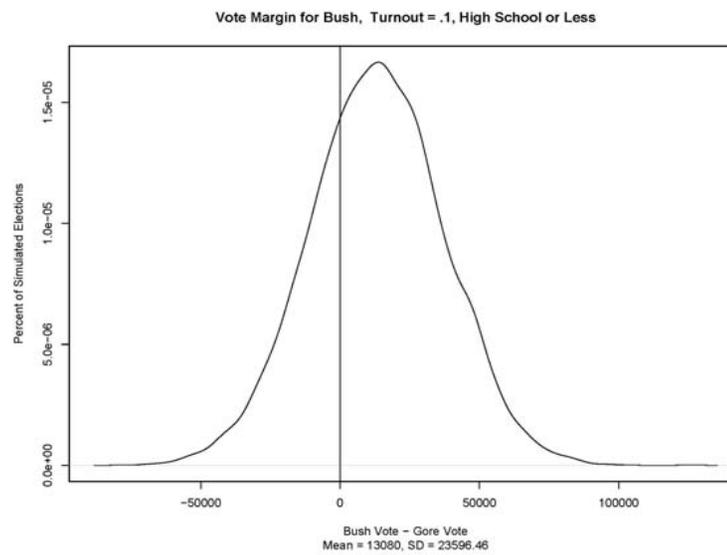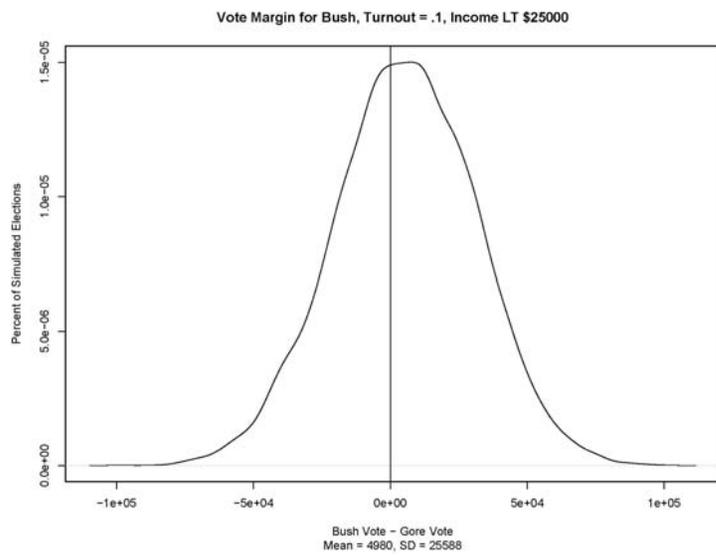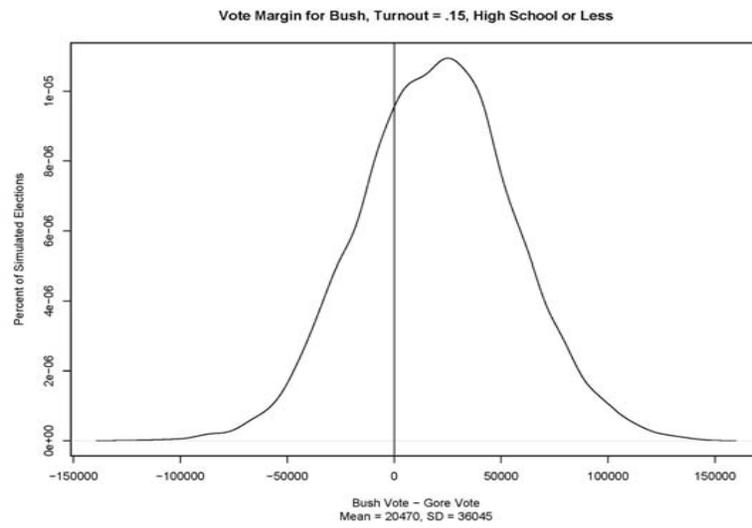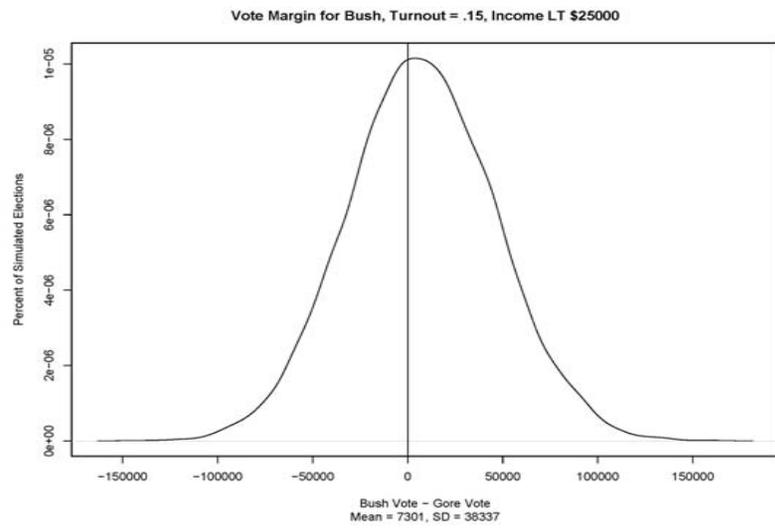
Figure A.1: Density plots of simulated election results. Vote margins greater than zero reflect Bush victories.

Results of Simulated Elections, Data Weighted for Death Rates by Race and Gender[9]

High School Diploma or Less

Group	Vote for Gore	Number of Ex-felons	Turnout rate	Expected Bush Vote Margin	Turnout rate	Bush Vote Margin
White Men	0.2	329264	0.1	20292.84	0.15	30170.76
White Women	0.271	69430	0.1	3716.894	0.15	5306.841
Black Men	0.7083	155571	0.1	-5944.09	0.15	-9184.63
Black Women	0.9444	48309	0.1	-3756.7	0.15	-5903.56
Expected Bush Vote Margin				14308.94		20389.41
Simulated Bush Vote Margin				12630		20470
Simulated 95% Confidence Interval				-29443 to 55767		-46054 to 84356
Percent of Simulated Elections Won by Bush				**71.7%**		**70.90%**

Family Income Below $25000

Group	Vote for Gore	Number of Ex-felons	Turnout Rate	Expected Bush Vote Margin	Turnout rate	Bush Vote Margin
White Men	0.2683	329264	0.1	15795.09	0.15	23424.14
White Women	0.3929	69430	0.1	2024.191	0.15	2767.786
Black Men	0.7692	155571	0.1	-7838.94	0.15	-12026.9
Black Women	0.8966	48309	0.1	-3294.87	0.15	-5210.8
Expected Bush Vote Margin				6685.472		8954.208
Simulated Bush Vote Margin				4918		7467
Simulated 95% Confidence Interval				-41151 to 50647		-60966 to 75337
Percent of Simulated Elections Won by Bush				**58.20%**		**58.22%**

[9] **Source:** Arias, E. (2005). U. S. Life Tables, 2002. National Vital Statistics Reports, Center for Disease Control.