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# Felon disenfranchisement and black voter turnout

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Thesis

**FELON DISENFRANCHISEMENT AND BLACK VOTER TURNOUT**

by

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# **FELON DISENFRANCHISEMENT AND BLACK VOTER TURNOUT**

**MICHAELA CUSHING-DANIELS**

## **ABSTRACT**

State laws disenfranchising felons and ex-felons have existed in many American states since before the Civil War. However, in the aftermath of the Civil War, new, more severe restrictions were passed as part of the Jim Crow Era laws aimed at preventing black citizens from exercising their new rights. While many of these laws were eventually stricken down by Supreme Court decisions, felon disenfranchisement provisions survived scrutiny. This opened the door for white backlash against the gains made by the Civil Rights Movement of the 1960s and '70s to manifest itself via the development of the massive prison industrial system over the last 40 years. This paper's inquiry is focused on the political consequences of the huge racial discrepancies in criminal justice outcomes in the United States, specifically on whether the disenfranchisement of felons and ex-felons depresses turnout among eligible black voters. I use an analysis of black voter turnout and its relationship to the severity of state disenfranchisement laws from 1980 through 2016 to explore three hypotheses related to these effects. The results suggest that, when all or most ex-felons are disenfranchised, the resulting dilution of the political efficacy and power of the communities into which they re-enter depresses turnout among eligible black voters in those communities. Additionally, I find evidence of significant depression in eligible black turnout in Southern states, suggesting the need for further investigation into the perpetuation of racial inequalities in specific geographic loci in the United States.

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## **Introduction**

In the aftermath of the Civil War, a set of amendments to the United States Constitution were passed with the aim of overcoming the barriers slave states had put in place to prevent former slaves from exercising citizenship rights. These amendments granted the rights of citizenship to all former slaves, established that they had the right to equal protection under the laws of state and federal governments, and extended the franchise to black men. However, backlash against these new federal measures led state governments, particularly in the former confederacy, to pass a slew of other laws imposing strict requirements on voter eligibility and led white agitators to employ violent intimidation tactics to prevent black citizens from exercising their new franchise. While many of these discriminatory laws and practices were stricken down by Supreme Court decisions that made barriers to voting like literacy tests and poll taxes illegal, one of the subtler legal barriers to black voting, felon disenfranchisement, survived scrutiny.

This is problematic because it opened the door for white backlash against the gains made by the Civil Rights Movement of the 1960s and '70s to manifest itself via the development of the massive prison industrial system over the last 40 years. The huge racial discrepancies in criminal justice outcomes in the United States have socially and economically crippled many black communities across the country. This paper's inquiry is focused on the political consequences of these inequities, specifically on whether the disenfranchisement of felons and ex-felons depresses turnout among eligible black voters. I use an analysis of black voter turnout and its relationship to the severity of state disenfranchisement laws from 1980 through 2016 to explore three hypotheses related to

these effects. First, I hypothesize that increases in the severity of a state's felon disenfranchisement law will depress turnout among that state's eligible black voters. Second, I hypothesize that states with more severe disenfranchisement laws experience more depressed turnout than states with less severe laws. Finally, I hypothesize that the magnitude of turnout depression is greater in states historically associated with targeted disenfranchisement of black citizens.

Section one provides an overview of the historical disenfranchisement of felons in the United States. Sections two and three explore previous empirical research on the political psychology of black voters and provides evidence for why one would expect felon disenfranchisement laws to have effects on eligible voters. Section four reviews my hypotheses, section five describes my data, and section six reviews my methods and results.

## **1 - Felon Disenfranchisement: A Brief History**

Felon disenfranchisement laws are not new, nor are they unique to the United States. "Civil Death" is a concept that can be traced to the ancient Greeks and which is widely accepted today in many democratic countries as one of the consequences of committing a crime. In fact, many U.S. states had felon disenfranchisement provisions in their constitutions prior to the Civil War. However, in the immediate aftermath of the Civil War, Southern politics were defined by the political impacts of former Confederate states using their disproportionate influence to serve narrow regional interests and develop the powerful "solid south." Manza and Uggen discuss how the dominance of

Southern Democratic leadership in Congress developed into the modern, Republican-controlled “solid South,” and how these states’ representatives have proved crucial in defeating efforts to re-enfranchise ex-felons.<sup>7</sup>

Southern and former Confederate states also have some of the strictest felon disenfranchisement laws. Many of these laws were part of a wave of restrictions on voting in Southern states following the Civil War and, in some cases, the passage of the Civil War Amendments.<sup>8</sup> While many of the other restrictions on voting passed during this time were removed by a series of Supreme Court decisions and the provisions of the Voting Rights Act of 1965, the Supreme Court upheld felon disenfranchisement laws as legal, and the Voting Rights Act excluded “those participating in rebellion and other crimes” from its provisions. While these laws were upheld in part because of their “race neutral” language, Manza and Uggen show that the racial composition of states’ prison populations impacted states’ adoption of more severe felon disenfranchisement provisions, particularly in the South.<sup>9</sup> While the severity of state statutes about felon disenfranchisement have varied over time, it has generally been the case that Southern states’ laws have been more severe, disenfranchising not only those in prisons, but many or all ex-felons as well.<sup>10</sup> The use of prisons to subjugate felons for the economic gain of southern states in the post-Civil War era laid the groundwork for the current prison

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<sup>7</sup> Manza, J., & Uggen, Christopher. (2006). *Locked out felon disenfranchisement and American democracy* (Studies in crime and public policy). Oxford: Oxford University Press. 48.

<sup>8</sup> Ibid. 51

<sup>9</sup> Ibid. 65

<sup>10</sup> See Appendix B.

industrial state that has developed largely in response to the advancements in black political power during and after the Civil Rights Movement of the 1960s and '70s.<sup>11</sup> Felon disenfranchisement laws have been carried over from the Jim Crow era to the modern American carceral state, and have contributed to the perpetuation of the systematic exclusion of black men in particular from political participation and agency.<sup>12</sup>

## **2 – The Dynamics of Group Identity Politics and Black Turnout**

In the United States, approximately 1.4 million black men are disenfranchised because of a current or former felony conviction. They make up almost half of the voting-age population who are ineligible to vote because of a felony conviction,<sup>20</sup> despite the fact that blacks only make up about twelve percent of the United States population as a whole. The racially disproportionate criminal justice outcomes in the United States are not a new subject; many authors have written about the ways of mass incarceration has diluted the political and economic agency of black communities in general.<sup>21</sup> While felon

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<sup>11</sup> Forman, J. (2017). *Locking up our own : Crime and punishment in black America* (First ed.). New York: Farrar, Straus and Giroux.

<sup>12</sup> Jennifer Rae Taylor, "Constitutionally Unprotected: Prison Slavery, Felon Disenfranchisement, and the Criminal Exception to Citizenship Rights," *Gonzaga Law Review* 47, no. 2 (2011-2012): 365-376

<sup>20</sup> J. Whyatt Mondesire, "Felon Disenfranchisement: The Modern Day Poll Tax," *Temple Political & Civil Rights Law Review* 10, no. 2 (Spring 2001): 439.

<sup>21</sup> See: Anonymous. (1989). The Disenfranchisement of Ex-Felons: Citizenship, Criminality, and "The Purity of the Ballot Box". *Harvard Law Review*, 102(6), 1317.; J. Whyatt Mondesire, "Felon Disenfranchisement: The Modern Day Poll Tax," *Temple Political & Civil Rights Law Review* 10, no. 2 (Spring 2001); Forman, J. (2017). *Locking up our own : Crime and punishment in black America* (First ed.). New York: Farrar, Straus and Giroux.; Jennifer Rae Taylor, "Constitutionally Unprotected: Prison Slavery, Felon Disenfranchisement, and the Criminal Exception to Citizenship Rights," *Gonzaga Law Review* 47, no. 2 (2011-2012): 365-392

disenfranchisement policies have been upheld by the Supreme Court because they only target those who have committed crimes and the Fourteenth Amendment and the Voting Rights Act both explicitly exempt from protection all those “participating in rebellion or other crimes,” these policies’ diluting effects may affect the behavior of eligible voters, which has serious political implications.

There are several reasons to expect that more severe felon disenfranchisement laws lead to the dilution of the eligible black vote. Meredith Rolfe’s social theory of voter turnout is a useful place to begin. Generally speaking, her theory posits that voters make political decisions conditioned on their social networks, and she suggests that the decision to turnout to vote is a social dilemma. In other words, people are significantly responsive to the behavior of those around them when it comes to turning out to vote.<sup>22</sup> This has several implications for this paper’s investigation. If the voting power of a state’s black voting-age population is being severely diluted via disqualification by felon and ex-felon disenfranchisement provisions, it is reasonable to predict that the exclusion of felons and ex-felons from political life will have ripple effects on their immediate social networks, especially if they are working to re-enter community life after their release. Eligible voters living in communities heavily affected by crime and law and order politics may therefore also be affected by the dilution of political efficacy in these areas.

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<sup>22</sup> Rolfe, M. (2012). *Voter turnout : A social theory of political participation* (Political economy of institutions and decisions). New York: Cambridge University Press.

Other research provides further insight into the effects of social voting and community efficacy on black turnout specifically. In “Psychological Involvement and Black Voter Turnout,” Maurice Magnum finds evidence that group political efficacy may matter more in a black voter’s decision to turn out than that person’s individual political efficacy.<sup>23</sup> That is, black voters in communities who believe that they, as a community, can make a difference in politics or that their representatives respond to their policy preferences are more likely to turnout to vote than black voters living in communities that do not have this belief. Additionally, Anthony T. Pescosolido provides evidence that group efficacy has significant, positive impacts on other measures of group success and effectiveness such as individual member willingness to continue as a group, individual learning and self-development while participating in the group, and the ability to work independently as a member of the group.<sup>27</sup> In particular, the strong relationship between group efficacy and the development of individual efficacy and ability to work independently as a member of a group suggests that potential voters in black communities with higher levels of political efficacy should be expected to turn out at higher rates than those with lower efficacy because of these characteristics.

Related research suggests that in more racially segregated areas, black political efficacy – defined as the ability of black communities to elect officials who vote in favor of legislation supported by black voters – is diminished as a result of more conservative

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<sup>23</sup> Mangum, Maurice. 2003. “Psychological Involvement and Black Voter Turnout.” *Political Research Quarterly* 56(1): 44.

<sup>27</sup> Pescosolido, A. (2003). Group Efficacy And Group Effectiveness. *Small Group Research*, 34(1), 34.

attitudes among non-black voters.<sup>28</sup> Areas with higher levels of racial segregation (like large cities) are often the same areas in which black communities have been targeted more generally by law enforcement as areas with higher crime.<sup>30</sup> The subsequently high rates of incarceration, police surveillance, and high numbers of felons and ex-felons in these communities contribute to the ostracization of black communities from society at large and to the dilution of black political efficacy within these larger communities. It is likely that the mutually reinforcing effects of racial segregation and high incarceration rates contribute to the more conservative attitudes of non-black voters in these more segregated communities, and drive down voter turnout rates in these ostracized black communities.<sup>31</sup> Severe disenfranchisement laws exacerbate this ostracization by preventing felons and ex-felons from participating in community political agendas, and hinder the rehabilitation of these individuals in areas where racial discrimination may already compound the effects of incarceration on community re-entry and political efficacy.

There is also new and interesting work on the demobilizing effects of incarceration on black turnout that suggests eligible black voters turn out at much lower rates after being incarcerated for a misdemeanor (a non-disenfranchising crime) than

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<sup>28</sup> Ananat, & Washington. (2009). Segregation and Black political efficacy. *Journal of Public Economics*, 93(5), 815.

<sup>30</sup> Tonry, M. (2011). *Punishing race : A continuing American dilemma* (Studies in crime and public policy). New York: Oxford University Press. 8.

<sup>31</sup> Gottschalk, M. (2015). *Caught: The Prison State and the Lockdown of American Politics* (Course Book.. ed.). Princeton, N.J.: Princeton University Press. 248.

eligible white voters.<sup>32</sup> This provides further evidence of the demobilizing effects of incarceration on turnout, and that extended effects on political and civic participation may have stronger effects for black communities than for white communities.<sup>33</sup> The mix of qualitative and quantitative evidence cited above provides ample reason to suspect that black voters rely on their group identity and sense of agency when they engage as political actors, and support for the idea that the dilution of this agency and the political efficacy of these communities via incarceration and felon disenfranchisement may depress turnout among eligible black voters.<sup>36</sup>

### **3 – Political Empowerment and Expression**

Apart from the connections between efficacy and turnout, theories on the relationship between political empowerment and expressive voting are relevant to this paper's inquiry. In their work on black empowerment, Bobo and Gilliam provide evidence that political empowerment – or the extent to which a group has achieved representation and influence over decision making in politics – drives black mobilization. Specifically, they found evidence that where blacks hold more positions of authority, wield political power, and have done so for longer periods of time, greater numbers of blacks engage in some sociopolitical involvement.<sup>37</sup> However, at the national level, there have only been

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<sup>32</sup> White, Ariel. Working Paper. “Misdemeanor Disenfranchisement? The demobilizing effects of brief jail spells on potential voters”. 1.

<sup>33</sup> Gottschalk, M. (2015). *Caught: The Prison State and the Lockdown of American Politics* (Course Book.. ed.). Princeton, N.J.: Princeton University Press. 247.

<sup>36</sup> *Ibid.* 248.

<sup>37</sup> Bobo, L., & Gilliam, F. (1990). Race, Sociopolitical Participation, and Black Empowerment. *American Political Science Review*, 84(2), 377.

155 black candidates elected to the House of Representatives, 10 elected to the U.S. Senate, and one elected as President of the United States. There must, therefore, be something different that motivates black voters to continually turn out.

Other research on voter turnout suggest that voting has expressive returns – that is, voters derive utility from voting to express their political beliefs and preferences, and thereby re-establish or reaffirm their personal political identities. The political implications of this model are important to a broader discussion of the potential spill-over effects of felon disenfranchisement laws on eligible black voter turnout. The expressive voting model predicts that voters attach themselves to collectives, in which the utility of voting comes largely from one’s identity as a member of that collective. This utility is in part determined by the number of other voters making up that collective and the aspects of identity that connect members of the collective.<sup>38</sup> However, research shows that “citizens who have experienced the strong arm of the state... remove themselves from virtually all avenues of civic expression... do not band together with others facing the same issues and needs in their communities, [and] do not turn to their representatives in office to resolve pressing political problems.”<sup>39</sup> This research also suggests other black citizens who have not been imprisoned, but who see themselves as part of a community targeted by law-enforcement view government as something to be avoided, and so

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<sup>38</sup> Schuessler, A. (2000). EXPRESSIVE VOTING. *Rationality and Society*, 12(1), 87-119.

<sup>39</sup> Lerman, Amy E., and Vesla M. Weaver. *Arresting Citizenship : The Democratic Consequences of American Crime Control*, University of Chicago Press, 2014. ProQuest Ebook Central, <https://ebookcentral.proquest.com/lib/BU/detail.action?docID=3038581>. 201.

remove themselves from venues for political expression to avoid potential interactions with law enforcement or government agents that could lead to incarceration. The implication is clear – if much of the utility in voting comes in part from the utility of expressing one’s membership to a political collective, but collectives of black voters connect themselves to the stigmas attached to the commission of crimes, then high numbers of disenfranchised citizens in states with more severe disenfranchisement laws will dilute the expressive utility of voting, and may depress turnout among members of their communities who are still eligible to vote.

Additionally, Bobo and Gillam point out that other hindrances to black empowerment like social segregation and persistent economic disadvantages are still present and effect black political identity and participation. These barriers are associated with the same phenomena that have resulted in the racial disparities in criminal justice outcomes. It has been generally found that high socio-economic status and high educational attainment are connected to higher voter turnout.<sup>40</sup> However, black Americans have the lowest median household income of any race-group in the United States, and only 30% of black adults in the United States had completed a Bachelor’s degree or more in 2015 (compared to almost 45% of white adults).<sup>41</sup> These disparities, along with the association of low-income, low-education black Americans with high crime rates, provide interesting evidence to suggest the collective identity of black

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<sup>40</sup> Verba, S., & Nie, Norman H. (1972). *Participation in America: Political democracy and social equality*. New York: Harper & Row.

<sup>41</sup> <https://www.census.gov/content/dam/Census/library/publications/2016/demo/p20-578.pdf>

Americans may not lend itself to high voter turnout. Richard Timpone addresses the historical perpetuation of these barriers by pointing out that the Civil Rights Movement of the 1960s and '70s marked a change in the goals of black mobilization, and thus in the tactics used to dilute their political power. In the immediate aftermath of the Civil War and throughout the Jim Crow Era, black mobilization was focused on voter registration and turnout, but as many of the social and legal barriers to black voting were removed via Supreme Court decisions and the Voting Rights Act, "the focus of voting discrimination shifted from preventing blacks from registering to vote to preventing them from winning elections." According to Timpone, "[as] efforts to limit the franchise were made illegal, many southern states responded with resistance plans to dilute the influence of the black vote."<sup>42</sup> Felon disenfranchisement laws, having been consistently upheld by the Supreme Court, provided a perfect avenue through which to perpetuate this dilution.

At this point, Supreme Court decisions became crucial in blocking (or failing to block) these new discriminatory tactics aimed at diluting the influence of the black vote. While the Voting Rights Act was instrumental in expanding the franchise to black Americans, the Court's decisions to uphold felon disenfranchisement provisions may depress turnout, not only by reducing the number of potential voters, but by negatively affecting eligible black voters who have the franchise but choose not to use it. Specifically, by allowing felons to be excluded from exercising the franchise despite the racial disparities in imprisonment rates and the relationship between incarceration and

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<sup>42</sup> Timpone, R. (1997). The Voting Rights Act and Electoral Empowerment: The Case of Mississippi. *Social Science Quarterly*, 78(1), 179.

social inequalities more generally, the prison industrial system has continued to exacerbate these inequalities and dilute the voting power of eligible voters.

#### 4 – Hypotheses

Drawing on the literature cited above, this paper’s inquiry is focused on three main hypotheses, summarized in Table A. First, given the evidence from previous literature that black voters’ decisions to turnout hinge significantly on the political efficacy of their communities, I expect felon and ex-felon disenfranchisement laws will have negative effects on black turnout among those still eligible to vote. Second, given that more severe laws disenfranchise larger and larger subsets of people that have been released from prison and re-entered community life, I expect that if the effects of states’ felon disenfranchisement laws are non-linear, depression effects in states with more severe disenfranchisement laws will be greater. Finally, given the historical prevalence of race politics and previous attempts to disenfranchise black voters in some states, I hypothesize that felon disenfranchisement laws will have stronger effects on eligible black turnout in states historically associated with targeted disenfranchisement of black citizens.

<b>Table A: Hypotheses</b>	
H1	Felon disenfranchisement laws depress turnout among eligible black voters.
H2	If the effects of states’ felon disenfranchisement laws are non-linear, depression effects in states with more severe disenfranchisement laws will be greater.
H3	The magnitude of turnout depression is greater in states historically associated with targeted disenfranchisement of black citizens.

## Data

The unit of observation for this paper is an individual state for each year in my study. The dependent variable is black voter turnout, measured as a percentage of the voting-eligible population. This data come from the United States Census' Voter Turnout tables; I confirm that they measured my population of interest (eligible voters) over the phone with a representative from the Current Population Survey. By using each state's voting-eligible population, as opposed to its voting-age population, I can measure the indirect effect of felon disenfranchisement laws depressing eligible voter turnout, as opposed to the direct effect of these laws decreasing the number of eligible black voters in a given state. I use state-level data because I am interested in the demobilizing effects on eligible black voters of the severity of a state's felon disenfranchisement laws, and variation in law severity is at the state level. Additionally, over 80% of Americans currently in prison are held in state institutions, making state laws on disenfranchisement the most appropriate way to measure the effects of felon disenfranchisement on the demobilization of eligible black voters.<sup>47</sup>

The independent variable in my study is a felon disenfranchisement law severity score assigned to each state, which I measure on a scale of zero to five.<sup>\*\*</sup> The meaning of each score is as follows:

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<sup>47</sup> Muller, & Wildeman. (2016). Geographic Variation in the Cumulative Risk of Imprisonment and Parental Imprisonment in the United States. *Demography*, 53(5), 1499.

<sup>\*\*</sup> Scores do not take into account disenfranchisement for felonies involving election fraud because most states disenfranchise perpetrators of those crimes for life, regardless of its disenfranchisement policy for other felonies.

- 0 - No disenfranchisement
- 1 - Disenfranchisement of felons until end of prison sentence
- 2 - Disenfranchisement of felons until end of parole or probation
- 2.5 – Disenfranchisement of felons until end of parole and probation
- 3 - Rights of all ex-felons felons restored w/in period of time after sentencing
- 4 - Rights of some\* ex-felons never restored - need to apply on individual basis
- 4.5 - Rights of all ex-felons never restored - need to apply on individual basis
- 5 - Rights never restored for ex-felons

I score felon disenfranchisement laws in this way because no state-level turnout research has adequately captured the variation in felon disenfranchisement law severity. While Thomas Miles finds that “ex-felon disenfranchisement has no impact on state-level voter turnout,” a stark limitation in Miles’ study is that he uses a binary variable for felon disenfranchisement laws to measure whether or not states disenfranchise ex-felons.<sup>48</sup> He admits himself that this binary measure fails to fully capture the state-level variation in the severity of disenfranchisement laws over time, and it is therefore insufficient for capturing the effect of these laws on eligible black voter turnout that I investigate. I add half-steps to the variable in order to account for slight changes in variation that I felt did not change the law’s severity enough to warrant a full step difference. I compress and

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\* some indicating that the disqualifying felonies are listed, or all second+ time offenders  
<sup>48</sup> Miles, T. (2004). Felon Disenfranchisement and Voter Turnout. *The Journal of Legal Studies*, 33(1), 92-94.

expand this coding scheme into a four- and seven-point scale as well in order to check for robustness in my results.<sup>49</sup>

State-level data are appropriate for this investigation because previous research has shown that the “distribution of disenfranchised felons varies enormously by state, race, and ethnicity because of great variations in state disenfranchisement statutes and state incarceration rates.”<sup>50</sup> Changes in state laws over time provide the variation in felon disenfranchisement that allows me to capture the relationship between these laws and voter turnout among the state’s eligible-to-vote black population. Because many states experienced significant change in the severity of their felon disenfranchisement laws over time (for example Maryland has a high score of 4.5 and a low score of one, Texas has a high score of 4.5 and a low score of 2.5, and seven states’ scores change more than four times during my time frame of interest), the model can employ state fixed effects to control for all observed and unobserved time-invariant state characteristics that might also affect black turnout rates. I also control for state-level variation in other population demographics that may be correlated with voter turnout using data from the Annual Population Survey the Census Bureau conducts in March. I rely on the Census’ measures for turnout; and so am limited by any error that may have occurred in their collection methods. Additionally, some states’ black populations are so small that they are excluded from percentages in the Census’ data. Finally, to account for external factors that may

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<sup>49</sup> See Appendix D.

<sup>50</sup> Gottschalk, M. (2015). *Caught: The Prison State and the Lockdown of American Politics* (Course Book.. ed.). Princeton, N.J.: Princeton University Press.

drive changes in black turnout from election to election, the models also include year fixed effects.

I control for several other state characteristics that I expect to be related to black voter turnout. I control for the percent of the state population that is black because I anticipate that, given the importance of community to black turnout, being a state with a higher number of black residents will have positive effects on turnout. I also control for the median age of the state's black population because age is independently correlated to voter turnout. Additionally, I control for the percentage of black residents that live in rural areas as an indicator of urbanization because I expect that there are differences in mobilization and group efficacy that may affect turnout in rural versus in urban areas. I also control for the percentage of black residents that have completed "some college" in each state because not only is higher educational attainment related to increased voter turnout more generally, educational deficits are also related to inequalities in incarceration rates, especially across racial lines.<sup>51</sup>

Finally, to test my third hypothesis, I also code for three interaction variables, defining three different subsets of states historically associated with disenfranchising black citizens. Most broadly, black Americans have faced targeted disenfranchisement in Southern states. For this reason, and because these states have the strictest felon disenfranchisement laws on average, I include an interaction variable for Southern states. However, the census includes the states of Delaware, Maryland, Kentucky, Oklahoma,

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<sup>51</sup> Tonry, M. (2011). *Punishing race : A continuing American dilemma* (Studies in crime and public policy). New York: Oxford University Press.

and West Virginia in its definition of the Southern region, and previous research has suggested that there are significant differences between former Confederate states and these “rim states.” Given the particular importance of race in the development of felon disenfranchisement laws in the former Confederacy, particularly during the Reconstruction Era, I also code for an interaction variable for states in the former Confederacy. Finally, if the relationship between felon disenfranchisement laws and eligible black turnout in states hinges on a historical legacy of targeted disenfranchisement of black voters, it is prudent to also include an interaction variable for those states targeted by the Voting Rights Act of 1965 for their intentional use of state laws to dilute black political power. I test for these geographic differences to attempt to capture a more detailed description of the relationship between felon disenfranchisement and eligible black voter turnout. For a full codebook, see Appendix C.

## **Methods and Results**

To create a workable dataset, I created a table in which I recorded black voter turnout (as a percentage of the eligible black population) from the Census tables for all election years for each state for which data is available. As mentioned previously, I had to exclude some states because their black populations were too small for their registration and voting data to be recorded by the Census. Then, using many sources including news stories, legal reviews, and empirical research studies from the Lexis Nexis database, I recorded a felon disenfranchisement score for each state for each year from 1980 to 2016 to record all changes in the severity of each state’s law during my

time frame of interest.<sup>53</sup> I added the control variables of interest from the Census' Annual Population Survey, and created my interaction variables.<sup>54</sup>

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<sup>53</sup> "Felons Gain Voting Rights In Connecticut ." *The New York Times*. May 15, 2001 Tuesday . Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic;); <http://archive.fairvote.org/righttovote/Felony%20Dis%20Laws%20in%20the%20US.pdf>; 115 Harv. L. Rev. 1939. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); 664 F.2d 391; 1981 U.S. App. LEXIS 21226. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); 575 F.2d 1110; 1978 U.S. App. LEXIS 10394. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); 128 Ariz. 419; 626 P.2d 149; 1981 Ariz. App. LEXIS 364. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); 103 Yale L.J. 537. (November, 1993 ): 11979 words. LexisNexis Academic. Web. Date Accessed: 2018/04/02.; 677 F.2d 510; 1982 U.S. App. LEXIS 18677. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); 711 F.2d 25; 1983 U.S. App. LEXIS 26175. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); 709 F.2d 1106; 1983 U.S. App. LEXIS 26513. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); 605 F. Supp. 802; 1985 U.S. Dist. LEXIS 22215. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); *1987 Laws of Wisconsin, Vol. 2 (1988)*. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); 544 F. Supp. 2d 1262; 2008 U.S. Dist. LEXIS 30217. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); *Mixon v. Commonwealth*, 759 A.2d 442 ( Pa. Cmwlth. 2000).; Cook, Jim. "Voter registration drive for convicts, ex-felons to begin this weekend." *The Dothan Eagle (Alabama)*. August 15, 2008 Friday . Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); "INCARCERATION COSTING BLACKS POLITICAL VOICE." *The Philadelphia Inquirer*. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); <http://www.sentencingproject.org/wp-content/uploads/2015/12/Felony-Disenfranchisement-Laws-in-the-US.pdf> <https://le.utah.gov/~1998/bills/hbillint/HB0190S3.htm>; "A Loss for Voting Rights." *The New York Times*. August 5, 2009 Wednesday . Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.); 12 Fed. Sent. R. 248. Date Accessed: 2018/04/02. [www.lexisnexis.com/hottopics/lnacademic.](http://www.lexisnexis.com/hottopics/lnacademic.) <http://www.pocconorecord.com/news/20160326/in-pa-ex-felons-discover-voting-rights>

<sup>54</sup> As defined by the U.S. Census regions: Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Alabama, Kentucky, Mississippi, Tennessee, Arkansas, Louisiana, Oklahoma, and Texas.

After I created my dataset, I developed regression models to test my three hypotheses, summarized in Table A. To measure the relationship between felon disenfranchisement and black voter turnout, I estimate a series of regressions controlling for state fixed effects and the additional controls I decided to add. I regress black turnout on states' disenfranchisement codes (my key independent variable) in Model 1 in each of my regression tables, and control for several additional variables including the percentage of state residents that are black, the mean age of a state's black population, the percentage of a state's black residents that have completed some college, and the percentage of a state's black residents that live in rural areas in Model 2. I also include state and year fixed-effects in all the regression models.

Table 1 shows the results of my two main regression models for all the states in my sample.<sup>55</sup> In the first model, I regress eligible black turnout on my main independent variable, Disenfranchisement Code. The coefficient for this model is small, positive, and insignificant. In the second model, I regress turnout on my main independent variable and add controls for the percentage of a state's population that is black, the median age of a state's black population, the percentage of a state's black population that have completed some college, and the percentage of a state's black population that lives in rural areas (my controls for black population share, median age, education level, and urbanization respectively). While the results of this model are still statistically insignificant, they are larger and in the expected negative direction. I do not find a significant correlation between the proportion of a state's population that is black and black turnout. However,

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<sup>55</sup> All models include state and year fixed effects.

as expected, the correlations between the controls for median age, level of education completed, and percent living in rural areas and black voter turnout are all significant at the .05 level of analysis. Interestingly, when I include my control variables, the coefficient of my key independent variable becomes negative, and higher in magnitude. While it is not a statistically significant effect, it is in the direction predicted by my first hypothesis.

Table 1 – Regression Models for All States, All Scores		
Variables	(1) Turnout	(2) Turnout
Disenfranchisement Code	0.167 (0.695)	-0.317 (0.691)
% Black		19.268 (15.251)
Median age (blacks)		0.229** (0.096)
% College degree (blacks)		17.577*** (6.150)
% Rural (blacks)		-16.481*** (4.063)
Constant	43.013*** (2.241)	45.403*** (4.124)
Observations	611	611
R-squared	0.636	0.658
Number of States	46	46
Standard errors in parentheses *** p<0.01, ** p<0.05, * p<0.1		

In Table 2, I run two additional regression models to test my second hypothesis, that the negative effect of states' felon disenfranchisement scores on eligible black turnout may be non-linear. In these models, I regress eligible black turnout on each of my disenfranchisement code scores to test if having a higher score depresses turnout among eligible black voters more than in states with low scores. By isolating individual scores in

these models, I am also able to address the potential that the effects of felon disenfranchisement laws on eligible black turnout are non-linear. In the first model, I find negative (though insignificant) coefficients across the range of disenfranchisement scores, and modestly significant effects for states in which felons are never re-enfranchised, even after completion of their sentence (a score of five). The effect size for a score of five is almost three times larger than the effect sizes for any other score, and the levels of significance across scores indicates that eligible black voter turnout is effected significantly by felon disenfranchisement laws only in states where laws are most severe. In the second model, I regress voter turnout on each disenfranchisement score and add the control variables from model two. As in the first model, each score has a negative coefficient, the coefficient for a score of five is statistically significant at the .01 level, and the significance of the control variables persists, as in the second model of Table 1. These results suggest that, when all felons and ex-felons are disenfranchised, the resulting dilution of the political efficacy and power of the communities into which they re-enter depresses turnout among eligible black voters in those communities by more than ten points.

Table 2 – Regression Models for All States, Individual Scores		
Variables	(1) Turnout	(2) Turnout
Discode = 1	-2.479 (3.206)	-1.970 (3.142)
Discode = 2	-5.650 (4.235)	-6.005 (4.146)
Discode = 2.5	-1.781 (4.244)	-3.325 (4.164)
Discode = 3	-2.573 (4.548)	-3.552 (4.459)
Discode = 4	-4.426 (4.297)	-5.862 (4.224)
Discode = 4.5	-2.555 (4.393)	-4.235 (4.326)
Discode = 5	-12.481* (6.716)	-12.519* (6.586)
% Black		15.471 (15.316)
Median age (blacks)		0.227** (0.096)
% College degree (blacks)		15.321** (6.196)
% Rural (blacks)		-15.239*** (4.111)
Constant	47.743*** (3.900)	50.085*** (5.100)
Observations	611	611
R-squared	0.646	0.664
Number of States	46	46
Standard errors in parentheses *** p<0.01, ** p<0.05, * p<0.1		

Next, I explore my third hypothesis – that the magnitude of turnout depression among eligible black citizens will be greater in states historically associated with targeted disenfranchisement of black citizens. I test three different regression models for different definitions of southern states, based on the different implications each model may capture

should the results be significant. The first model is a repetition of model two in Table 1, and simply tests the effects of the severity of states' felon disenfranchisement laws on eligible black turnout. The second model tests for additional effects in Southern states, as defined by the U.S. Census, using an interaction term because there is strong historical evidence that felon disenfranchisement laws may be particularly seen as an effort to repress the black vote in Southern states. Additionally, black populations are generally higher in Southern states, so dilution effects may be more concentrated in the South (see Appendix A). Previous research has suggested that there are significant differences between former Confederate states and "rim states" in the South (Delaware, Maryland, Kentucky, Oklahoma, and West Virginia). Given the political power of Confederate states in the "solid South" bloc during the era in which many felon disenfranchisement laws were re-passed, the third model tests for the additional effect of being a member of the former confederacy on eligible black turnout using a second interaction term. Finally, the fourth model tests for the additional effect of being a state targeted by the Voting Rights Act of 1965, using a third interaction term. As these states had been targeted by the federal government specifically because of their attempts to disenfranchise their black citizens, I expect law severity to be highest for these states, and for the dilution effects of felon disenfranchisement laws on eligible voters to be strongest. All models include my additional controls for black population share, median age, education level, and urbanization, as well as state and year fixed effects.

Table 3 shows the results for my first regression models with interactions for Southern states, former Confederate states, and states targeted by the Voting Rights Act.

Column 1 shows the results of the first model, with effects for all states and the additional controls, which remain the same as those in Table 1. Column 2 shows the results for the regression model including interaction effects for Southern states. The coefficient for non-Southern states loses its negative direction and remains statistically insignificant, but the coefficient for the Southern interaction term is negative and significant at the .05 level of analysis. This suggests that as the severity of a state's felon disenfranchisement laws increases, black turnout decreases only in the Southern states. The effects of the additional controls in this model behaved as expected – while, as in Tables 1 and 2, states' black population proportions had no significant effect on eligible black turnout, the effect of those populations' median ages on turnout is significant at the .05 level of analysis, and the effects of the controls for educational attainment, and urbanization are significant at the .01 level.

Column 3 shows the results for the regression model including interaction effects for former Confederate states. The regression coefficient for states that were not members of the former Confederacy remained statistically insignificant, but the coefficient for the Confederate state interaction term was negative and modestly significant. This suggests that the negative relationship between eligible black turnout and the severity of states' felon disenfranchisement laws is also exacerbated in former Confederate states, although less so than in the complete Southern region. Column 4 shows the results for the final regression model which included an interaction term to test for the additional effects of being a state targeted by the Voting Rights Act of 1965. As in the first two interaction models, the regression coefficient for states not targeted by the VRA is statistically

insignificant. However, as in the first two models, the coefficient for the interaction term was statistically significant, in this case at the .01 level of analysis. These results indicate that among states targeted by the Voting Rights Act, felon disenfranchisement laws have a strong, negative effect eligible black voter turnout. Models 3 and 4 also included the additional controls for black population demographics, all of which retained the same levels of significance as those in Model 2. The inclusion of these additional variables as well as my ability to control for state and year fixed effects give the results of my regressions strong causal leverage, and allow me to infer that the significant decreases in eligible black voter turnout in different subsets of Southern states are the result of these states' felon disenfranchisement laws, providing strong evidence validating my third hypothesis. I conduct additional robustness checks on my results in Appendix D.

Table 3 – Regression Models for All States w/Geographic Interactions				
Variables	(1) Turnout	(2) Turnout	(3) Turnout	(4) Turnout
Disenfranchisement Code	-0.317 (0.691)	1.574 (1.174)	0.977 (0.958)	1.348 (0.888)
Discode w/South Interaction		-2.876** (1.444)		
Discode w/Confederate Interaction			-2.629* (1.352)	
Discode w/VRA Interaction				-4.101*** (1.388)
% Black	19.268 (15.251)	17.006 (15.252)	21.653 (15.262)	22.959 (15.195)
Median age (blacks)	0.229** (0.096)	0.193** (0.097)	0.207** (0.096)	0.194** (0.096)
% College degree (blacks)	17.577*** (6.150)	16.972*** (6.141)	17.601*** (6.135)	17.289*** (6.108)
% Rural (blacks)	-16.481*** (4.063)	-17.148*** (4.066)	-16.651*** (4.054)	-16.262*** (4.035)
Constant	45.403*** (4.124)	46.448*** (4.146)	45.409*** (4.114)	45.059*** (4.097)
Observations	611	611	611	611
R-squared	0.658	0.660	0.660	0.663
Number of States	46	46	46	46
Standard errors in parentheses *** p<0.01, ** p<0.05, * p<0.1				

## Discussion and Conclusion

The purpose of this study is to add to the literature on the extended effects of felon disenfranchisement by exploring the potential effects of felon and ex-felon disenfranchisement laws on eligible black turnout. The results discussed in the previous section not only provide additional evidence for the discriminatory effects of mass

incarceration on black communities more broadly, they have important implications in the context of the politics of law and order and the justness of civil death. As mentioned previously, current estimates of the United States' felon and ex-felon populations suggest that almost six million people (or one in forty adults) have been disenfranchised either temporarily or permanently because of a criminal conviction, and over half of these adults are black. However, the development of the "color blind court" during the rise of the "carceral state" in the 1970s and '80s led to the failure of many legal challenges to "race-neutral" state felon disenfranchisement laws. While the American public at large has begun to scrutinize the racial disparities in criminal justice outcomes – racially disproportionate prison populations, recidivism rates, the effects of the war on drugs, etc. – the practice of "civil death" via the disenfranchisement of current and former felons (including those on and off parole and/or probation) has gone largely unchallenged by the court. The consequences of civil death policies are broad and far reaching, and the exclusion of felon disenfranchisement laws from strict judicial scrutiny under the Fourteenth Amendment allowed southern states, including those explicitly targeted by the Voting Rights Act, to subvert institutional protections of black enfranchisement via their prison systems.

Defenders of felon disenfranchisement, and of civil death more generally, frame their arguments around the belief that those who have committed crimes should be excluded from political agency because their lack of "moral competence" translates to a

lack of political competence.<sup>57</sup> However, there is strong evidence that many of the criminal justice outcomes and law enforcement policies in states have at least some basis in racialized politics. This evidence in conjunction with previous evidence of black Americans' reliance on group political efficacy for mobilization and turnout, the inequities of political resources in many black-majority areas, the importance of the expressive benefits of voting to black turnout, and the massive inequities in criminal justice outcomes in the United States, the upholding of felon disenfranchisement laws under the argument that it is a just and race-neutral punishment for those that have chosen to commit a crime is problematic. The findings in this paper raise an additional problem – the disproportionate incarceration of black Americans and their subsequent disproportionate exclusion from political participation lowers the political efficacy of their communities, and dilutes the political force of eligible black voters. These extended effects call into question the justification of felon and ex-felon disenfranchisement laws on the grounds that they only impact those who have chosen to commit crimes.

In the wake of the unprecedented spike in incarceration rates in the United States since the 1980s, and the undisputed discriminatory penal outcomes by race, the use of “civil death” in a practical sense, regardless of the anecdotal “morality” of its purpose, has served only to preserve the socio-economic and political supremacy of white voters' interests. Felon disenfranchisement is just another facet of this broader complex, as evidenced by its impacts on eligible black voters who are supposed to be protected via

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<sup>57</sup> Dinan, J. (2007). The Adoption of Criminal Disenfranchisement Provisions in the United States: Lessons from the State Constitutional Convention Debates. *Journal of Policy History*, 19(3), 282-312.

the constitution and the Voting Rights Act. The Court's sanction of the practice in the years prior to the development of the prison industrial system has allowed states known for their efforts to exclude black voters from exercising their right to vote to effectively maintain their systems of oppression by allowing them to "constitutionally" subvert the protections provided for by the Voting Rights Act through strict felon and ex-felon disenfranchisement laws, and perpetuate the discriminatory results of these laws among eligible black voters. The statistically significant effects of states' felon disenfranchisement laws on eligible turnout when accounting for the additional effects of being a Southern state suggest that, in places historically known for attempting to prevent black citizens from exercising their right to vote, these laws are still having their intended discriminatory effects. Additionally, the negative and significant effect of being a former Confederate state on the relationship between states' felon disenfranchisement laws and eligible black voter turnout suggests that the discriminatory effects of this Jim Crow Era measure have extended through the present and continue to dilute the political agency of potential voters who have never committed a crime. These effects, as well as the significant effects of felon disenfranchisement laws in states specifically targeted by the Voting Rights Act of 1965, suggest that a reconsideration of the effectiveness of the Voting Rights Act is in order, as is the qualification of felon disenfranchisement laws as "race neutral."

The original Voting Rights Act gave the federal government unilateral power to intervene in the election administration of state and local governments. It also controversially designated the entire states of Alabama, Georgia, Louisiana, Mississippi,

South Carolina, and the Commonwealth of Virginia, as well as 40 out of 100 counties in North Carolina, as “covered jurisdictions.” A state or county government was considered a “covered jurisdiction” if it had implemented any discriminatory test or device, or if the voting registration and turnout rates among the eligible voting population in the presidential election of 1964 was lower than 50%. These jurisdictions needed preclearance from the federal government for any change in any law that could affect public elections, and, on the request of residents, federal officials could step in to review the voter registration process and monitor the elections. Thus, the goal of the Voting Rights Act was to prevent segregationist governments in the South from disenfranchising minorities via discriminatory laws or state sponsored intimidation.<sup>58</sup>

However, the Voting Rights Act of 1965 was ill-equipped to deal with the issue of vote dilution via the “race neutral” policies, like felon disenfranchisement laws, that had survived the courts’ strict scrutiny under the Fourteenth and Fifteenth Amendments.<sup>59</sup> Even after Congress passed a string of amendments to the Voting Rights Act in 1982, including an amendment to the language of Section 2 to was to emphasize the Act’s original intent that “violations of the [Act] could be established by showing the discriminatory *effect* (emphasis added) of the challenged practices at issue,”<sup>61</sup> language excluding those “participating in rebellion or other crimes” from protection remained

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<sup>58</sup> Harada, M. (2012). The Voting Rights Act of 1965 and Strategic Policy Making in the South. *State Politics & Policy Quarterly*, 12(4), 458.

<sup>59</sup> Williamson, Richard A. "The 1982 Amendments to the Voting Rights Act: A Statutory Analysis of the Revised Bailout Provisions." *Wash. ULQ* 62 (1984): 1.

<sup>61</sup> Hench, Virginia E. (1998). The death of voting rights: The legal disenfranchisement of minority voters. *Case Western Reserve Law Review*, 48(4), 746-747.

unchallenged. The use of this phrase to continually exclude current and former felons from constitutional protection meant that the damning statistics about racially disproportionate prison populations cannot be used to establish the potential for these unequal outcomes to affect the political agency of eligible voters in black communities affected by the inequities of the criminal justice system. However, the results of this study indicate that there is significant depression in eligible black turnout in areas where state felon disenfranchisement laws are most severe. These effects are further perpetuated in Southern states by other, non-statutory barriers such as the psychological effects of historic exclusion from enfranchisement and other forms of political participation, depressed turnout due to fear of violence from white supremacists, and a general lack of political efficacy in black communities in these states.<sup>62</sup>

The extensive and punitive system of social and legal penalties for committing crimes has transformed the United States penal system into a political and socio-economic force that has begun to redefine the term “citizenship.” The findings of my study provide quantitative evidence for the argument that the power of law enforcement institutions as mediators of status identity and belonging cause black people who are still eligible to vote, who live in communities affected by high concentrations of criminal convictions, to be less likely to turnout or engage in other political or civic activities.<sup>63</sup>

While aggregating to the state level is a limitation, evidence of an effect of felon

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<sup>62</sup> Harvey, A. (1994). Ex-Felon Disenfranchisement and Its Influence on the Black Vote: The Need for a Second Look. *University of Pennsylvania Law Review*, 142(3), 1182.

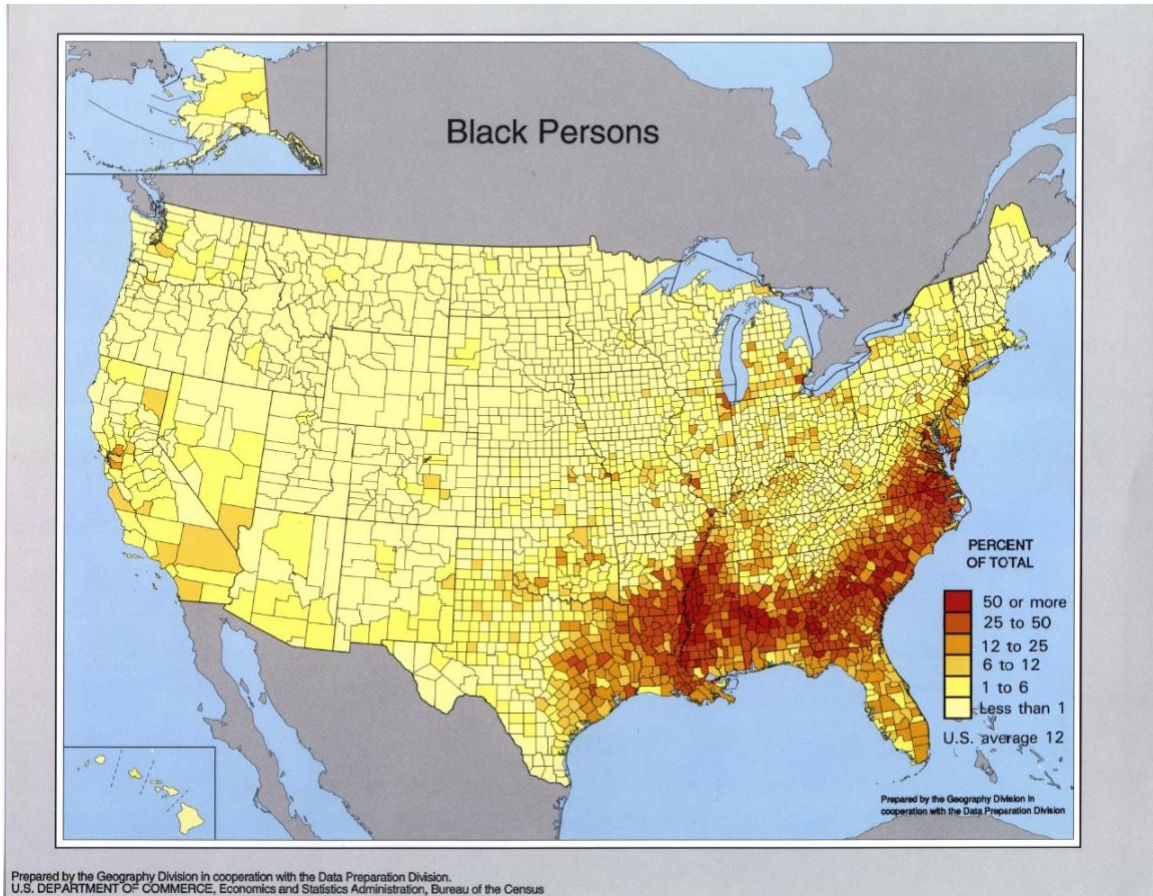
<sup>63</sup> Gottschalk, M. (2015). *Caught: The Prison State and the Lockdown of American Politics* (Course Book.. ed.). Princeton, N.J.: Princeton University Press. 248.

disenfranchisement on eligible voter turnout is an important finding in its own right. There is also some evidence that the application of states' felon disenfranchisement policies varies based on the interpretation of election officials, but some of this variation may be captured via the controls for state and year fixed effects.<sup>64</sup> In general, this work suggests the need for future research at a more disaggregated level to determine whether these state-level effects are robust to inclusion of intra-state community or individual fixed effects, which are beyond the scope of the current work.

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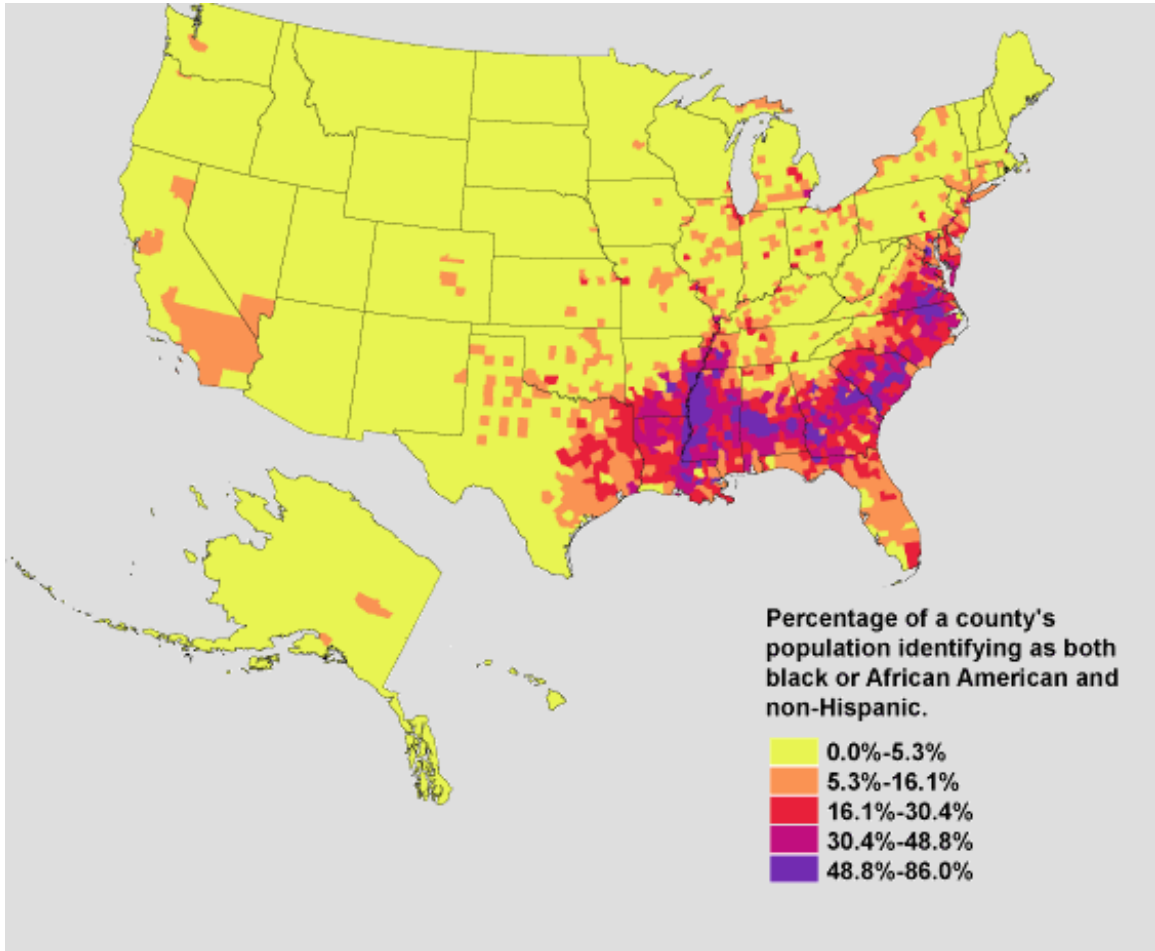
<sup>64</sup> *Richardson v. Ramirez*, 418 U.S. 24, 94 S. Ct. 2655, 41 L. Ed. 2d 551 (1974).

## Appendix A: Census Maps



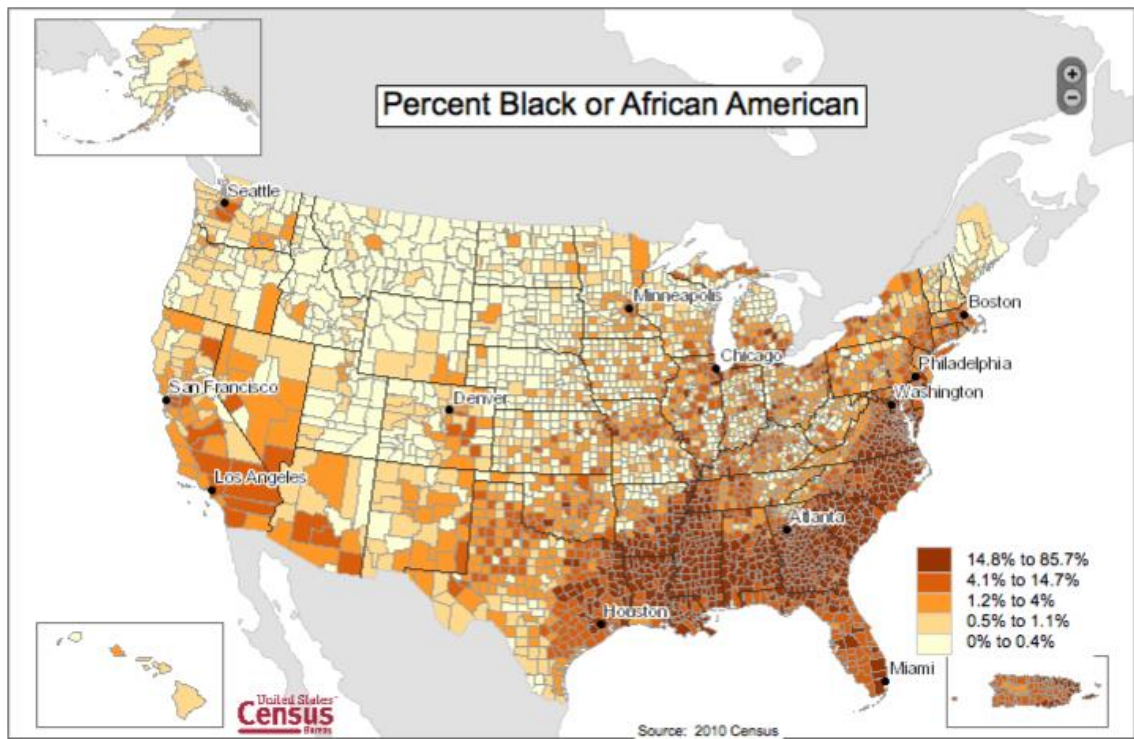
<https://www.census.gov/geo/maps-data/maps/race-hisp1990.html>

Appendix A (cont.)



[http://www.censuscope.org/us/map\\_nhblack.html](http://www.censuscope.org/us/map_nhblack.html)

Appendix A (cont.)



<https://www.census.gov/geo/maps-data/maps/datamapper.html>

## Appendix B: Score Table

<b>Northeast</b>		<b>Midwest</b>		<b>South</b>		<b>West</b>	
<b>Average Score:</b>	<b>1.33</b>	<b>Average Score:</b>	<b>2.13</b>	<b>Average Score:</b>	<b>3.35</b>	<b>Average Score:</b>	<b>2.48</b>
Connecticut	2.35	Indiana	1.03	Delaware	3.83	Arizona	4.18
Maine	0	Illinois	1.03	Florida	4.32	Colorado	2.06
Massachusetts	0.47	Michigan	1.03	Georgia	2.63	Idaho	2.32
New Hampshire	1.03	Ohio	1.03	Maryland	3.54	New Mexico	4.03
Rhode Island	2.47	Wisconsin	2.47	North Carolina	2.40	Montana	1.03
Vermont	0	Iowa	3.93	South Carolina	3.49	Utah	0.53
New Jersey	2.24	Kansas	2.68	Virginia	4.31	Nevada	4.13
New York	2.07	Minnesota	2.42	West Virginia	2.26	Wyoming	4.04
Pennsylvania	1.31	Missouri	2.39	Alabama	4.46	Alaska	2.49
		Nebraska	4.35	Kentucky	4.25	California	2.06
		North Dakota	1.03	Mississippi	4.28	Hawaii	1.03
		South Dakota		Tennessee	4.24	Oregon	1.03
				Arkansas	2.18	Washington	3.38
				Louisiana	1.60		
				Oklahoma	2.42		
				Texas	3.35		

## Appendix C: Codebook

<b>Variable Name</b>	<b>Label</b>
year	Year
state	State
disenfranchisementcode	Disenfranchisement Code
turnout	Eligible Black Turnout
census_south	Southern States
discodexsouth	Disenfranchisement Code w/South
confederacy	Interaction
discodexconfederate	Confederate States
vrastates	Disenfranchisement Code w/Confederate
discodexvra	Interaction
black	States targeted by VRA
age_black	Disenfranchisement Code w/VRA
somecollege_black	Interaction
rural_black	% Black
fips_state	Median age (for blacks)
discoderecode	% College (for blacks)
discoderecode2	% Rural (for blacks)
disscore1	FIPS State Code
disscore2	4 pt. Dis. Code
disscore3	8 pt. Dis. Code (no half-steps)
disscore4	Dis. Code = 0
disscore5	Dis. Code = 1
disscore6	Dis. Code = 2
disscore7	Dis. Code = 2.5
disscore8	Dis. Code = 3
recode1xsouth	Dis. Code = 4
recode1xconfederate	Dis. Code = 4.5
recode1xvra	Dis. Code = 5
recode2xsouth	4 pt. Dis. Code w/South Interaction
recode2xconfederate	4 pt. Dis. Code w/Confederate
recode2xvra	Interaction
	4 pt. Dis. Code w/VRA Interaction
	8 pt. Dis. Code w/South Interaction
	8 pt. Dis. Code w/Confederate
	Interaction
	8 pt. Dis. Code w/VRA Interaction

Appendix C (cont.)

<b>Variable Name</b>	<b>Label</b>
year1	Year = 1980
year2	Year = 1981
year3	Year = 1982
year4	Year = 1983
year5	Year = 1984
year6	Year = 1985
year7	Year = 1986
year8	Year = 1987
year9	Year = 1988
year10	Year = 1989
year11	Year = 1990
year12	Year = 1991
year13	Year = 1992
year14	Year = 1993
year15	Year = 1994
year16	Year = 1995
year17	Year = 1996
year18	Year = 1997
year19	Year = 1998
year20	Year = 1999
year21	Year = 2000
year22	Year = 2001
year23	Year = 2002
year24	Year = 2003
year25	Year = 2004
year26	Year = 2005
year27	Year = 2006
year28	Year = 2007
year29	Year = 2008
year30	Year = 2009
year31	Year = 2010
year32	Year = 2011
year33	Year = 2012
year34	Year = 2013
year35	Year = 2014
year36	Year = 2015
year37	Year = 2016

## Appendix D: Robustness Checks

In this appendix, I provide two alternate ways of operationalizing the severity of a state's disenfranchisement law. These different operationalizations both address different ways of thinking about measuring felon disenfranchisement, and provide a robustness check for the results of the regression models used in the main paper. I compress and expand the independent variable into four-point and eight-point scales respectively, and then run regressions similar to those I run when testing for my main effects. I code the compressed variable based on the comparative severity of the main disenfranchisement code variable, depending on when or if a felon or ex-felon could get their rights restored. The four-point scale is as follows:

- 0 – No disenfranchisement
- 1 – Disenfranchised until completion of prison sentence
- 2 – Disenfranchised until completion of parole and probation, or rights restored within a set number of years after release
- 3 – Rights of some or all felons and ex-felons never restored or restored on individual application basis

In the eight-point scale, I simply expand my main independent variable such that each step in the score is a full step, rather than including half-steps. My eight-point scale is coded as follows:

- 0 - No disenfranchisement
- 1 - Disenfranchisement of felons until end of prison sentence
- 2 - Disenfranchisement of felons until end of parole or probation

- 3 – Disenfranchisement of felons until end of parole and probation
- 4 - Rights of all ex-felons restored w/in period of time after sentencing
- 5 - Rights of some\* ex-felons never restored - need to apply on individual basis
- 6 - Rights of all ex-felons never restored - need to apply on individual basis
- 7 - Rights never restored for ex-felons

Table 1A shows the results of the regression models for my four-point law severity scale. I use the same regression models as I employ in Table 3 in the main paper, but replace the disenfranchisement code variable with a new variable for the compressed scale, and use new variables for geographic interaction effects between my three regions of interest and my compressed scale. All the models still include state and year fixed effects. Column 1 shows the effects of the four-point disenfranchisement code eligible black voter turnout while including my control variables for black population share, median age, education level, and urbanization. As in my main model, the effects for felon disenfranchisement law severity remain negative and statistically insignificant, the effects for black population share remain insignificant, and the coefficients for the other demographic control variables remain strong and significant. In the models for Southern and Confederate states (Columns 2 and 3 respectively), the coefficients for my interaction variables remain negative, but lose their significance. However, in my fourth model,

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\* some indicating that the disqualifying felonies are listed, or all second+ time offenders

which includes interaction effects for states targeted by the Voting Rights Act of 1965, the coefficient on the interaction effect retains its significance, indicating that, among states targeted by the Voting Rights Act, felon disenfranchisement laws maintain a strong, negative effect on eligible black voter turnout. The demographic controls retain their significance in all the models.

Table 1A – Regression Models for All States, Compressed Dis. Code				
Variables	(1) Turnout	(2) Turnout	(3) Turnout	(4) Turnout
4 pt. Disenfranchisement Code	-1.782 (1.163)	0.186 (1.971)	-0.368 (1.527)	-0.011 (1.467)
4pt. Code w/South Interaction		-3.018 (2.442)		
4pt. Code w/Confederate Interaction			-3.279 (2.296)	
4pt. Code w/VRA Interaction				-4.611** (2.338)
% Black	18.439 (15.232)	16.495 (15.305)	19.712 (15.243)	20.346 (15.222)
Median age (blacks)	0.235** (0.096)	0.212** (0.098)	0.216** (0.097)	0.205** (0.097)
% College degree (blacks)	16.861*** (6.153)	16.704*** (6.151)	17.066*** (6.149)	17.052*** (6.137)
% Rural (blacks)	-16.942*** (4.021)	-17.130*** (4.022)	-16.973*** (4.017)	-17.102*** (4.011)
Constant	48.502*** (4.467)	48.837*** (4.473)	48.665*** (4.464)	48.169*** (4.458)
Observations	611	611	611	611
R-squared	0.659	0.660	0.660	0.661
Number of States	46	46	46	46
Standard errors in parentheses *** p<0.01, ** p<0.05, * p<0.1				

Table 2A shows the results of the regression models for my seven-point severity scale. Using the same set of regression models as Table 1A, I find that my results are similar to those in Table 3, as I would expect. Column 1 shows the results of the first model, with effects for all states and the additional controls, which remain negative and insignificant. Column 2 shows the results for the regression model including interaction effects for Southern states. The coefficient for the Southern interaction term is negative and significant at the .05 level of analysis. This suggests that the negative effect of a state's felon disenfranchisement law on eligible black turnout persists in Southern States, even with the expanded scores. Column 3 shows the results for the regression model including interaction effects for former Confederate states. The regression coefficient for states that were not members of the former Confederacy remained statistically insignificant, but the coefficient for the Confederate state interaction term was negative and significant at the .05 level. Column 4 shows the results for the final regression model which included an interaction term to test for the additional effects of being a state targeted by the Voting Rights Act of 1965. As in the first two interaction models, the regression coefficient for states not targeted by the VRA is statistically insignificant. However, as in the first two models, the coefficient for the interaction term retains its significance, in this case at the .01 level of analysis. In all four models, the effects for black population share remain insignificant, and the coefficients for the other demographic control variables remain strong and significant. These results indicate that my main results using the 5-point disenfranchisement code are largely robust to changes to the main independent variable, and provide further evidence in favor of my assertion

that the magnitude of turnout depression is greater in states historically associated with targeted disenfranchisement of black citizens.

Table 2A – Regression Models for All States, Expanded Dis. Code				
Variables	(1) Turnout	(2) Turnout	(3) Turnout	(4) Turnout
7 pt. Disenfranchisement Code	-0.004 (0.460)	1.358 (0.778)	0.966 (0.650)	1.202 (0.591)
7pt. Code w/South Interaction		-2.082** (0.960)		
7pt. Code w/Confederate Interaction			-1.904** (0.902)	
7pt. Code w/VRA Interaction				-2.998*** (0.933)
% Black	19.315 (15.254)	17.376 (15.229)	21.966 (15.258)	23.442 (15.179)
Median age (blacks)	0.227** (0.096)	0.191** (0.097)	0.207** (0.096)	0.196** (0.096)
% College degree (blacks)	17.764*** (6.146)	16.985*** (6.135)	17.643*** (6.127)	17.177*** (6.096)
% Rural (blacks)	-16.145*** (4.072)	-16.999*** (4.077)	-16.368*** (4.060)	-15.772*** (4.039)
Constant	44.520*** (3.958)	45.855*** (3.993)	44.583*** (3.946)	44.425*** (3.925)
Observations	611	611	611	611
R-squared	0.658	0.661	0.660	0.664
Number of States	46	46	46	46
Standard errors in parentheses *** p<0.01, ** p<0.05, * p<0.1				

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