The 'Electoral Connection'
Of Felon Disenfranchisement Reform

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Currently forty-eight states enforce felon disenfranchisement laws, which prohibit individuals from voting based upon prior felony convictions. An estimated 5.3 million Americans are prevented from voting due to these restrictions. While in apparent contradiction with fundamental democratic values, the historical roots of felon disenfranchisement can be traced back to the Civil War. Over forty-five years after the passage of the Voting Rights Act, the continued presence of these policies demonstrate their resilience. In part, the "tough on crime" rhetoric, which has dominated politics since the late 1980s, has provided a political cover for disenfranchisement laws. Representatives supporting the easing of felon voting restrictions leave themselves vulnerable to being labeled as "soft on crime." Furthermore, since those who are directly affected by felon disenfranchisement laws are stripped of voting rights, representatives generally avoid direct pressure from these groups to ease felon voting restrictions. Despite this, between 1997 and 2008, there was an increase in the number of state reforms easing felon voting restrictions. In each instance, reform was passed through the state legislature. This paper examines why some states eased felon voting restrictions during this time period while others did not. In particular, I examine the motivations of state representatives to ease felon voting restrictions. I find that states under Democratic control were more likely to ease voting restrictions for felons as the size of their African-American and Hispanic populations increased. Suggesting, I contend, that under certain circumstances Democrats incentives to ease felon disenfranchisement laws.

Currently forty-eight states enforce felon disenfranchisement laws, which prohibit individuals from voting based upon prior felony convictions. An estimated 5.3 million Americans are prevented from voting due to these restrictions. While in apparent contradiction with fundamental democratic values, these laws have continued to persist for centuries. Over forty-five years after the passage of the Voting Rights Act, the continued presence of these policies demonstrate their resilience. In part, the "tough on crime" rhetoric, which has dominated political discourse since the early 1980s (Mauer 1999), has provided a political cover for disenfranchisement laws. Since then, Democratic and Republican politicians alike have found it politically rewarding to take "tough on crime" policy positions, resulting in a dramatic increase in a number of state and federal policies, like mandatory minimum sentencing and three strikes laws (Beckett 1999, 2003; Newburn and Jones 2005). Little retraction of these policies has occurred largely due to the continuing "politicization of crime policy" (Mauer 1999: 14; Tonry 1996). Considering persistence of felon disenfranchisement laws within this political context, it appears unlikely that reform easing felon voting restrictions would get the support of a majority of elected representatives in the near future.

The dominance of "tough on crime" rhetoric, which impacts the policy positions of representatives, suggests that felon disenfranchisement laws are here to stay for the time being. Additionally, it appears that representatives lack any real electoral incentive to ease voting restrictions for felons. First, since those directly affected by these restrictions have their voting rights taken away, they are limited in their ability to place electoral pressure on representatives. Second, those who are most impacted by felon voting restrictions tend to hold characteristics that suggest low levels of political participation. Therefore, even if felon disenfranchisement laws were eased, the likelihood that convicted felons would vote, based upon these characteristics,

would be expected to be quite low. Taken together, the desire to avoid appearing "soft on crime" and the lack of real electoral incentives to ease restrictions, suggests that felon disenfranchisement laws are unlikely to be eased.

Contrary to these expectations, however, the number of state reforms easing felon voting restrictions has increased. Between 1997 and 2008, seventeen reforms easing barriers for felons to vote were passed in twelve states (see Figure 1). In each instance, the reforms were passed through the legislature and signed into law by the governor. This is puzzling considering the incentives of representatives to maintain or strengthen felon voting restrictions. The purpose of this paper is to understand why reform occurred during this time period. In order to fully understand why felon voting restrictions were eased, I contend the role of the representative must be considered.

Since each reform was passed through the legislature and signed into law by the governor, representatives played a fundamental role in the easing of felon voting restrictions. Thus, it is worth understanding the incentives or motives that contributed to representative behavior despite contrary expectations. While some representatives may have clear incentives to uphold or strengthen disenfranchisement laws, I contend that others have an incentive to ease these laws. More specifically, I argue that under certain circumstances Democratic representatives have an electoral incentive to ease voting restrictions for felons. In particular, I contend that Democrats in districts with larger percentages of African-Americans and Hispanics, those most impacted by felon disenfranchisement laws, have an electoral incentive to ease felon voting restrictions in an attempt to expand their electorate and appeal to subconstituencies.

A Closer Look at Felon Disenfranchisement

As incarceration rates have grown, so has the impact of felon voting restrictions. In fact, Uggen and Manza find that felon disenfranchisement laws have impacted the results of past elections (Uggen and Manza 2002). Their findings suggest that at least seven U.S. Senate elections and one presidential election would have been different had felons been able to vote (Uggen and Manza 2002). It is likely that in each instance Democrats would have won the seat rather than their Republican counterparts. These results follow a long line of research which maintains that African-Americans and Hispanics tend to support the Democratic Party (Cain, Kiewiet, and Uhlaner 1991; Dawson 1994; Tate 1993). While Uggen and Manza's findings have significant implications for the larger democratic process, including party control over the legislative and presidential branches, they also have more specific implications for political representation in the United States.

Due to the disparate incarceration rates between racial minorities and Whites in the United States, African-Americans and a growing number of Hispanics are disproportionately impacted by felon voting restrictions. Currently, it is estimated that nationally 1.4 million African-American men are prohibited from voting based upon prior felony convictions.[1] While there are no national estimates on the impact of felon disenfranchisement on Hispanics, the Mexican American Legal Defense and Education Fund (MALDEF)[2] has made efforts to examine its impact on Hispanics in certain states.[3] Based upon their study, they find that Hispanics are generally disproportionately disenfranchised compared to their percent of the overall voting age population (MALDEF 2003). Considering that African-Americans and Hispanics are the most impacted by felon voting restrictions, it is evident that felon disenfranchisement limits the

[1] Sentencing Project
[2] http://www.maldef.org/assets/pdf/FEB18-LatinoVotingRightsReport.pdf
[3] Arizona, California, Florida, Nebraska, Nevada, New York, North Carolina, Texas, Virginia, and Washington

political voice of these minority groups. This is particularly troubling considering the tumultuous history of race relations in the United States and the continued struggle for minority political incorporation.

The roots of felon disenfranchisement laws can be traced back to the Civil War Era and the passage of the Civil War Amendments (Behrens and Uggen 2003). The primary purpose of these Amendments was to ensure full and equal political incorporation to former African-American slaves. In particular, the Fifteenth Amendment established the right to vote for African-Americans by declaring "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude" (U.S. Constitution). In response, states began implementing laws that began to infringe on the right to vote. While non-racial on the surface, these laws were racial in intent and in consequence. Grandfather clauses, poll taxes and felon disenfranchisement laws were some of the policies invoked by states to prevent African-Americans from voting while at the same time not directly contradicting the newly implemented Fifteenth Amendment. As previously shown, racial minorities continue to be disproportionately impacted by felon voting restrictions.

Although federal guidelines to voting exist, it is left to each state to determine who is eligible to vote. Forty-eight states currently have some sort of voting restrictions for felons.[4] The severity of these restrictions, however, varies greatly resulting in a "patchwork" of complex felon voting restrictions (Brown-Dean 2003). Some states like Maine and Vermont, have no limits on felon voting. Others, like Rhode Island and Ohio, prohibit voting while incarcerated, and reinstate voting rights upon release. A majority of states, however, have some form of post-

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[4] Maine and Vermont are the exceptions.

incarceration restrictions where voting is prohibited while on parole and probation. Finally, the most severe felon voting laws, as exist in Virginia and Kentucky, disenfranchise for life.

The complexity of felon voting restrictions is further exacerbated by various state-level nuances. For instance, some states automatically reinstate voting rights upon completion of sentence, whereas other states require individuals to petition for their rights. Depending upon the state, individuals must either apply to a board or the governor in order to be re-enfranchised. In the most extreme circumstances, individuals must apply to the governor for a pardon. Additionally, some states require that waiting periods be completed before the right to vote is restored. Finally, many voting restrictions vary within the state depending upon the individual's offense. Consequently, depending upon the severity of voting restrictions and the size of the African-American and Hispanic populations, the consequences of felon disenfranchisement laws on the political incorporation of racial minorities varies by state.

Considering that (1) African-Americans and Hispanics are disproportionately impacted by felon voting restrictions, (2) as a population African-Americans and Hispanics generally support the Democratic Party, and (3) the findings of Uggen and Manza that had felons been allowed to vote in past elections, the Democratic candidate in those elections would have won, I contend that Democrats have an electoral incentive to ease felon voting restrictions. First, they desire to expand their electorate. Those most impacted by felon disenfranchisement laws tend to favor the Democratic Party (Uggen and Manza 2002; Ewald 2008). Both African-Americans and Hispanics are incarcerated at significantly high rates and consequently are disenfranchised at high rates[5] (Uggen and Manza 2002). Historically, they have shown sustained support for the Democratic Party (Cain, Kiewiet, and Uhlaner 1991; Dawson 1994; Tate 1993). Thus,

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[5] Bureau of Justice Statistics: Prison and Jail Inmates at Midyear:
http://bjs.ojp.usdoj.gov/index.cfm?ty=pbse&sid=38

Democratic representatives have an incentive to extend the voting rights of felons in hopes of expanding their electorate.

Second, Democratic representatives have an incentive to attempt to appeal to groups within their constituency. Representatives "position-take" in ways they think will be electorally beneficial (Mayhew 1974). They try to appeal to citizens they think will turn out to support them on Election Day. Traditionally, the Democratic Party has supported issues pertaining to racial equality and civil rights (Frymer 1999; Piven 1992; Weiss 1983). African-Americans and Hispanics have also shown support for the Democratic Party. By expanding felon voting rights, Democratic representatives attempt to appeal to their African-American and Hispanic constituents. Thus, depending upon the racial and political context of individual states, reform easing felon voting restrictions should be either more or less likely.

In an attempt to understand why some states ease felon voting restrictions while others do not, this paper will proceed as follows. First, I will outline how other scholars have attempted to understand variation in felon disenfranchisement laws and reform of these laws. Second, a groundwork of the literature on representation will be described to provide insight into how consideration of the role of the representative informs our understanding of easing felon voting restrictions. Third, through statistical analysis I will test the primary hypotheses of this paper along with feasible alternative hypotheses. Finally, I will discuss the implications of these findings and suggest avenues for future research.

What Accounts for Felon Voting Reform?

While most of the existing literature on felon disenfranchisement focuses on its historical origins, state variation in restrictiveness and its political consequences (Allard and Mauer 1999; Ewald 2002; Key 1963; Keyssar 2000; Mauer 2002; Manza and Uggen 2006; Behrens, Uggen

and Manza 2003; Preuhs 2001), recently scholars have begun to turn their attention to issues of reform. A majority of this work has focused on state-level characteristics that make it more or less conducive to ease felon voting restrictions. Considering the disproportionate impact of felon disenfranchisement on racial minorities, much of the attention given to felon voting reform has centered on the effect that a state's racial context has on its likelihood to reform.

Taking into account the historical use of felon disenfranchisement laws as a means to prevent African-Americans from voting, a vast majority of the research examining the relationship between a state's racial context and their felon voting laws have primarily focused on a state's African-American population. Based on theories of racial threat, many scholars have argued that the larger a state's African-American population, the more stringent felon voting restrictions will be and the less likely the state is to implement reform easing restrictions (Brown-Dean 2003; Uggen and Manza 2002, 2003). Uggen and Manza contend that more than just the size of a state's overall African-American population, the size of a state's population of incarcerated African-Americans impacts the severity of felon voting restrictions (2002). The greater the state's African-American incarceration rate, the more racial threat will prevent the easing of felon voting restrictions (2002). These studies suggest that the severity of a state's voting restrictions are proportional to the size of their African-American population.

In contrast to this linear perception of the relationship between African-American population size and felon voting restriction severity, Preuhs contends that the relationship is curvilinear (2001). As the proportion of a state's African-American population increases, the likelihood increases that the state will have more restrictive felon voting laws. This trend is expected to continue until the proportion of African-Americans reaches an inflection point of .40, at which point policies are expected to become less restrictive (2001). Preuhs' findings

suggest that once the African-American population reaches a certain size, they collectively have enough political influence to encourage politicians to ease restrictions. While this may not take the form of an overt demand for felon disenfranchisement reform, politicians may nonetheless recognize the political opportunity to appeal to a large segment of their constituent population.

Following Preuhs, other studies have shown that the likelihood of reform, easing felon voting restrictions, will increase as the size of the state's African-American population increases due to their expanding political influence (Brown-Dean 2003; Behrens and Uggen 2003). Brown-Dean finds that states with growing African-American populations are more likely to ease felon voting restrictions (2003); suggesting that once African-Americans become a "substantial percentage of the citizenry," they are able to push for their political inclusion (Brown-Dean 2003: 145). It is noteworthy to highlight that in a rare exception to the scholarship, Brown-Dean examines Hispanics. Interestingly she finds that states with growing Hispanic populations are likely to make their felon voting laws more restrictive (2003). Taken together, these findings indicate that a better understanding of the role that representative's electoral incentives play in influencing felon voting reform.

In accordance with trying to understand the political decisions politicians face in deciding whether or not to ease felon voting restrictions, Yoshinaka and Grose examine states' political contexts (2006). They find, between 1965 and 1999, states under Democratic control were more likely than not to ease their felon voting restrictions (2005). Moreover, they determine that these states are more likely to ease restrictions when the state Democratic Party is politically vulnerable; thus attributing the decision to ease felon voting restrictions as part of a political calculation by Democratic politicians. Since those most effected by felon voting restrictions come from groups that traditionally support the Democratic Party, they can expect to receive the

most electoral gain from the reform. Consequently, when Democratic politicians feel politically vulnerable they are more willing to take the political risk of expanding their electorate by enfranchising felons.

The findings of studies considering the impact of state racial and political context on felon disenfranchisement reform indicate that further research is needed in understanding how the political considerations of state representatives impact a state's likelihood to reform. Research focusing on state racial contexts suggests that once racial minorities attain enough political influence, state representatives will respond with reform. Studies focusing on state political contexts suggest that if politically vulnerable, state representatives will ease restrictions. Both streams of analysis point to the pivotal role that the political incentives of representatives play in easing voting restrictions. The purpose of this paper is to provide a link between these two streams of analysis and examine the effect that the electoral incentives of state representatives have on easing felon voting restrictions.

Focusing on Representatives

In order to understand the impact that representative political considerations have on felon disenfranchisement reform, it is first necessary to review the existing literature on representative behavior. This will provide insight into understanding why representatives do what they do, or more particularly, which constituents they represent. Considering the argument of David Mayhew, that representatives are "single-minded seekers" of reelection, representatives strategically choose which constituents to appeal to so as to maximize their likelihood of winning come Election Day (1974). Traditionally, scholars have argued this meant that they would take positions that appealed to the majority of their constituents (Arnold 1990; Fenno 1978; Key 1963; Kingdon 1981; Mayhew 1974). The majoritarian model, commonly known as the

Demand-Input Model, argues that the majority places demands on their representatives (Wahlke 1971). In an attempt to win the support of the majority, representatives respond to their demands. However upon closer examination, it becomes less clear if the preferences of the majority guide their behavior.

Following the logic of the majoritarian model, representatives are expected to take centrist positions. That is, they take the position of the median voter in an attempt to maximize their appeal to constituents. However, much scholarship has emerged showing that representatives often do not take the median position on any given issue (Adams et al. 2004; Burden 2004; Lewis and King 2000; Merrill and Grofman 1999). This provides reason to question if their behavior is driven by the preferences of the majority.

Recognizing that there are instances in which representatives do not follow the preferences of the majority has led scholars to evaluate other factors that may determine their behavior. Some have attempted to explain their behavior in terms of issue salience. The Issue Visibility Thesis contends that as the visibility of an issue increases, the responsiveness of a given legislator also increases (Bianco 1994; Bianco et al. 1996; Hutchings 2004; Page and Shapiro 1993). Constituents are more easily able to attain information about an issue and their representative's behavior pertaining to that issue when it is highly visible. This enables the constituents to hold them accountable. In fear that they will pay on Election Day, representatives are more responsive to their constituent demands when the issues are highly salient (Kuklinski and Elling 1977; McCrone and Kuklinski 1979).

Others emphasize the role that political parties play in influencing the behavior of representatives. In Congress, party affiliation is a predicting factor of roll call voting (Poole and Rosenthal 1997). Some scholars have attributed this to the power political parties have over their

members (Cox and McCubbins 1993, 2004; Lebo et al, 2006; Rohde 1991). Cox and McCubbins contend that political parties act as "legislative cartels" in that they provide loyal party members with rewards and impose sanctions on those who do not support the party platform (1993). Therefore, parties have significant influence over how representatives behave.

Still others contend that under certain conditions small groups of constituents influence the behavior of representatives (Bishin 2000; Fenno 1978; Goff and Grier 1989; Griffin and Newman 2005). In his "subconstituency politics theory of representation," Bishin argues that elected officials strategically appeal to "intense and active" groups of citizens (2000, 2009: 10). Since members of these groups are more politically aware and involved than the average citizen, they can be counted on to participate. In their pursuit of reelection, representatives choose to appeal to individuals whose support they rely on. Thus, intense minority groups have a strong influence over the behavior of representatives (Bishin 2009). Through an examination of felon disenfranchisement reform, this paper provides further evidence that the preferences of the majority do not always guide representative behavior. In fact, under certain circumstances their behavior is driven by minority preferences.

Relationship between Representation and Felon Disenfranchisement

As previously stated, this paper contends that the electoral incentives of representatives have contributed to the easing of felon voting restrictions across the country. In particular, Democrats attempt to expand their electorate and appeal to subconstituencies, namely African-Americans and Hispanics. This paper will test three hypotheses in an attempt to see if Democratic representatives strategically appeal to African-American and Hispanic constituents by easing felon voting restrictions in the hopes that electoral benefit will follow. Keeping in mind that there are two primary electoral incentives for Democrats to lessen the severity of felon

disenfranchisement laws, my first hypothesis is that Democratic controlled states are more likely to ease restrictions than states under Republican or split party control. In an attempt to show that electoral incentives are at play, I examine the relationship between Democratically controlled states and both African American and Hispanic populations. Hence, my second hypothesis is that Democratic controlled states are more likely to ease felon voting restrictions as the size of their African-American population increases. My third hypothesis is that the likelihood of Democratic controlled states to ease restrictions will increase as the percent of its Hispanic population increases.

Two competing hypotheses, which may account for why some states ease felon voting restrictions, will also be considered. First, based upon the racial threat hypothesis, some scholars have found that the size of a state's African-American and Hispanic incarceration rate positively affects the severity of felon voting restrictions (Uggen and Manza). That is, the greater the incarceration rate of African-Americans and Hispanics, the more severe felon voting restrictions tend to be in that state. However, few studies have examined the effect that minority incarceration rates have on the easing of felon voting restrictions. Thus, the first competing hypothesis contends that the larger a state's African-American and Hispanic incarceration rate, the less likely a state will be to ease felon voting restrictions.

The second alternative hypothesis considers how the political calculations of representatives affect the likelihood that a state will ease felon voting restrictions. Yoshinaka and Grose contend that representatives will only ease felon voting restrictions when they are politically vulnerable, thus making it worth the potential electoral risk of appearing "soft on crime." Therefore, the second hypothesis contends that states under Democratic control and that

had a small margin of victory in the last presidential election will be more likely to ease felon voting restrictions than other states.

Data and Methods

The data used in this analysis is from an original dataset. First, I gathered information on state felon disenfranchisement laws by examining state constitutions[6], legislative acts[7] and reports from the Sentencing Project[8]. Second, information on political party control of the state legislature and governorship was gathered from the National Conference of State Legislatures[9], the National Governors Association[10]. Third, I gathered data pertaining to the racial composition of states and examined the voting age populations by referring to the U.S. Census: Voting and Registration Publications.[11] Fourth, the data on state poverty levels was also collected from the U.S. Census[12].

In order to examine why certain states eased their felon voting restrictions between 1997 and 2008, I use a Logistic Regression Analysis. The dependent variable is a dummy variable representing whether or not a state reduced the severity of their felon voting restrictions during the twelve-year period. States that did ease restrictions are coded as '1,' while states that did not were coded as '0'. Thirty-one reforms dealing with felon disenfranchisement laws were passed in twenty states between 1997 and 2008. Of those, three regressed, making felon voting more difficult. Out of the remaining twenty-eight reforms, I determined that seventeen substantially eased felon voting restrictions.

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[6] http://www.constitution.org/cons/usstcons.htm
[7] http://www.ncsl.org/default.aspx?tabid=16588
[8] http://www.sentencingproject.org
[9] www.ncls.org
[10] www.nga.org
[11] http://www.census.gov/hhes/www/socdemo/voting/publications/p20/index.html
[12] http://www.census.gov//did/www/saipe/county.html

In order to identify the reforms that substantially eased voting restrictions for felons, I first determined the severity of a state's disenfranchisement law prior to and after reform. I created the FD Severity Scale that describes the severity of state voting restrictions for felons. I assessed the severity of these restrictions based upon two criteria. First, I examined the categories of felons disenfranchised by the state. This was evaluated on a zero to five scale. States that have no felon voting restrictions, even while incarcerated, were given a score of '0'. States were coded as '1' if they prohibited voting while incarcerated. A score of '2' was given to those states that disenfranchise while incarcerated and on parole. Those states that prevent felons from voting while incarcerated, on parole and probation were coded as '3'. States that prohibit voting while incarcerated, on parole, on probation and have some post-sentence restrictions were coded as '4'. Finally, states that disenfranchise for life upon the conviction of a felony were given a score of '5'.

Second, I examined the restoration process for felons to regain their voting rights. States that automatically restore the right to vote upon completion of sentence and any required waiting period were coded as '0'. States that require felons to petition to a board of government and corrections officials to have their voting rights restored were given a score of '1'. Finally, states that require felons to petition the governor were given a score of '2'.

After determining the severity of felon voting restrictions prior to reform, I used the FD Severity Scale to determine the severity of these restrictions after reform. By taking the difference between a state's severity score for (1) categories of felons disenfranchised and (2) restoration process before and after reform, I determined the amount of change that resulted. Any reform that resulted in a positive difference on either criteria were classified as having substantially eased felon voting restrictions. Thus, they were coded as '1' for the dependent

variable. Reforms that resulted in no difference or a negative difference were classified as not having substantially eased felon voting restrictions and were coded as '0' for the dependent variable. Between 1997 and 2008, I determined that seventeen reforms substantially eased felon voting restrictions in twelve-states.

For example, prior to 2001 Connecticut prohibited persons convicted of a felony from voting while incarcerated, on parole and on probation. This gave them a score of '3' in category one of the FD Severity Scale. After the 2001 reform, felons on probation became eligible to vote, thereby giving them a score of '2'. Since a previous category of disenfranchised felons were given back their voting rights, the difference between the before reform severity and after reform severity was '1'. In my analysis, all positive differences between before and after FD Severity scores are considered to have substantially eased restrictions. Thus, the 2001 reform in Connecticut is one of the seventeen reforms I determined substantially extended the voting rights of felons between 1997 and 2008.

Several independent variables are included in my analysis. The first examines the political context of states. Through a dummy variable, I examine whether or not a state is under Democratic control. States where the Democratic Party is in control of both houses of the state legislature and have a Democratic governor are given values of '1'. States where the Republican Party is in control of the state legislature and the governorship and those states under split party control are given values of '0'.

Other independent variables consider the racial context of states. I examine the size of a state's African-American population by looking the percent of its Voting-Age Population (VAP). I also look at the percent of a state's VAP that is Hispanic. Both of these are continuous variables measured by percentage. Since the argument of this paper focuses on the electoral

incentives of state politicians, it is necessary to examine the VAP because this is the population that politicians consider when making their policy decisions.[13]

In an attempt to understand how the political and racial contexts of a state interact, I create two interaction terms. The first describes the interaction between Democratic state control and the percent of the VAP that is African-American. The second describes the interaction between Democratic state control and the percent of the Hispanic VAP. By using the interaction terms I am able to evaluate the relationship between Democratic representatives and both African Americans and Hispanics.

The final two control variables added to my analysis are the percent of a state's population in poverty and the severity of felon disenfranchisement laws. First, the percent in poverty is a continuous variable that measures the percent of a state's population under the poverty level.[14] Second, I control for the severity of felon voting restrictions prior to reform. Recently Ewald found that states with more severe felon disenfranchisement laws are more likely to pass reform lessening those restrictions (2008). Intuitively this relationship makes sense considering that states with the most restrictive policies can only reduce their severity if reform occurs. Severity of felon voting restrictions was based on the same FD Severity Scale described at the beginning of this section.

Other variables were also included to account for the two alternative hypotheses. First, in an attempt to account for the racial threat hypothesis, a state's African-American and Hispanic incarceration rates were included. The incarceration rate for both variables are per 100,000 people. Second, in an attempt to account for Yoshinaka and Grose's political vulnerability

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[13] Brown-Dean (2003) measures the size of minority populations by examining their percent of the Voting Age Population.

[14] I control for state poverty rates because past studies have shown that along with racial and ethnic minorities, the poor are also disproportionately impacted by felon disenfranchisement laws (Uggen and Manza 2002).

hypothesis two variables were included. The first variable measures the closeness in the vote of the last presidential election. States where the last presidential election was won by a small margin of victory, here defined as five percentage points or less, were coded as '1.' States that were won in the last presidential election by a larger margin of victory than five percent were coded as '0.' The second variable is an interaction term between state Democratic control and the margin of victory in the last presidential election. This variable attempts to directly capture the argument of Yoshinaka and Grose, that because of political vulnerability, states under Democratic control are more likely to ease felon voting restrictions when the margin of victory in the last presidential election was small than states where the margin of victory was large.

Results

To determine the effect that state racial and political contexts have on the easing of felon voting restrictions, I conducted a Logistic Regression Analysis. I estimated the following baseline model:

Reform = b0 + b1*Democratic Control + b2*African-American + b3*Hispanic + b4*FD Severity + b5*Poverty + μ

Considering the findings of Preuhs, that the relationship between the size of a state's minority population and the severity of that state's felon voting restrictions is curvilinear, I first determine whether or not it is appropriate to account for this curvilinear relationship when examining what factors contribute to the easing of felon voting restrictions. In order to account for this, I ran two linear regression models. The first included variables measuring the percent of a state's population that is African-American and Hispanic. The second model included quadratic versions of these variables. The results in Table 1 indicate that the relationship

between the size of a state's minority community and their likelihood to ease voting restrictions for felons is not curvilinear. In the first model, the size of a state's Hispanic population has a positive and statistically significant effect on the likelihood of reform. However in the second model, the squared size of a state's Hispanic population is not statistically significant. Considering this and the pseudo r-squared and Wald chi-square values, the remainder of this paper will consider the relationship between race and the likelihood of reform as linear.

Table 2 shows the results of the baseline model (Model A). Included are the estimated coefficients, the robust standard errors and the odds ratio. The results are somewhat unexpected. Model A shows that there is no statistically significant relationship between Democratic state control and the passing of reform that lessens felon voting restrictions. As for the effect that a state's racial context has on the likelihood of reform, mixed results are found. Model A in Table 2 shows that the percent of a state's VAP that is African-American does not have a statistically significant effect on the easing restrictions. However, the percent of a state's VAP that is Hispanic does have a statistically significant effect. As the percent of a state's Hispanic population increases by one percent, the odds of expanding voting rights for felons increases by approximately eleven percent. Also significant in Model A is the existing severity of felon disenfranchisement laws at the time of reform. As a state's FD Severity score increases, indicating more restrictive laws, the odds increase that the state will ease their voting restrictions for felons.

These findings suggest that simply having Democrats in control of the state legislature and governorship does not lead to an increase in the likelihood of reform. Since the primary argument of this paper is that the electoral incentives of Democratic state representatives increase the likelihood that a state will ease their felon voting restrictions, Model B attempts to

more directly account for this. If it is true that Democratic representatives are easing felon

voting restrictions because they have an electoral incentive to expand their electorate and appeal

to constituent groups, namely African-Americans and Hispanics, then we should expect

Democrats with larger African-American and Hispanic constituencies to be more likely to ease

restrictions. I examine this effect by including two interaction variables into Model B (see Table

2). The first interaction variable is between Democratic control and the size of a state's African-

American population. The second interaction variable is between Democratic control and the

size of a state's Hispanic population. The following is the estimated model for Model B:

Reform = b0 + b1*Democratic Control + b2*African-American + b3*Hispanic + b4*Democratic

Control*African-American + b5*Democratic Control*Hispanic +b6*FD Severity + b7*Poverty

+ μ

The results of Model B, shown in Table 2, show support for my hypotheses. Unlike

Model A, Model B shows a statistically significant relationship between Democratic control and

the easing of voting restrictions for felons. However, the relationship is negative. The odds of

easing restrictions decrease when states are under Democratic control, compared to states under

Republican control or split party control. Model B also shows a statistically significant

relationship between FD Severity, the initial severity of felon voting restrictions at the time of

reform, and the easing of those restrictions. States with more restrictive policies are more likely

to pass reform, expanding felon voting rights, than states with the least restrictive policies.

Perhaps states under Democratic control are more likely to have the least restrictive policies, thus

making them less likely to ease restrictions. In order to test this, I conducted a correlation

between Democratic control and FD Severity. The correlation between the two is .0439. Thus,

Democratic control of a state is not highly correlated with the severity of that state's felon voting restrictions.

While the results in Model B show a negative relationship between Democratic control and reform resulting in less restrictive felon voting policies, a positive relationship is found for the two interaction variables. Table 2 shows that as the size of the African-American population increases by one percent in Democratic controlled states, the odds increase by around 46 percent that the voting rights of felons will be expanded. A similar relationship is found for Hispanics. As the Hispanic population in Democratic controlled states increases by one percent, the odds increase by around 34 percent that felon voting restrictions will be lessened. These findings provide insight into the electoral incentives of Democratic representatives. In particular, they suggest that Democratic representatives are motivated by their African-American and Hispanic constituents to make felon disenfranchisement laws less severe.

Additionally, Model B continues to show that the size of a state's Hispanic population continues to have an independent effect on the easing of felon voting restrictions despite which political party is in control. As the Hispanic population increases by one percent, the odds increase by around nine percent that a state will broaden the voting rights of felons, regardless of political control. This is a noteworthy finding for two reasons. First, the scholarship on felon disenfranchisement has primarily focused on African-Americans, leaving a general void in the literature pertaining to Hispanics.[15] Second, even when controlling for Democratic control and an interaction between Democratic control and size of the Hispanic population, the size of a state's Hispanic population still has a statistically positive effect on the easing of felon voting restrictions.

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[15] Brown-Dean's work is an exception to this general void (2003).

The results thus far appear to provide evidence for the primary argument of this paper, that the likelihood of easing felon voting restrictions is positively influenced by Democratic state representatives' electoral incentives to appeal to their African-American and Hispanic constituents. The next section seeks to place the findings of this paper in the context of the arguments of previous scholarly work on felon disenfranchisement. That is, the findings and arguments of other scholars will be taken into account in order to seek a more complete understanding as to what contributes to the easing of felon voting restrictions.

Testing Alternative Hypotheses

There are two primary competing hypotheses that could account for why some states ease felon voting restrictions while others do not. First, the racial threat hypothesis asserts that the incarceration rate of African-Americans and Hispanics in a given state impacts the severity of voting restrictions. Uggen and Manza find that the larger a state's incarceration rate of African-Americans and Hispanics, the more severe felon voting restrictions are likely to be (2002). Following this argument, it is expected that the larger the rate of incarceration among African-Americans and Hispanics, the less likely states should be to ease felon voting restrictions. In order to account for this I include two variables measuring the incarceration rate of African-Americans and Hispanics per 100,000 people.

The second hypothesis considers how the political calculations of representatives affect the likelihood that a state will ease felon voting restrictions. Yoshinaka and Grose contend that representatives will only ease felon voting restrictions when they are politically vulnerable. Following Yoshinaka and Grose, I account for representative political vulnerability by including two variables. The first variable measures the closeness in the vote of the last presidential election. States where the last presidential election was won by a small margin of victory, here

defined as five percentage points or less, was coded as '1.' States where the last presidential

election was won by a margin of victory larger than five percent were coded as '0.' The second

variable is an interaction term between state Democratic control and the margin of victory in the

last presidential election. This variable attempts to directly capture the argument of Yoshinaka

and Grose, that because of political vulnerability, states under Democratic control are more

likely to ease felon voting restrictions when the margin of victory in the last presidential election

was small than states when the margin of victory was large.

Model C adds on to the baseline model by including variables that account for the

alternative hypotheses. The equation is as follows:

Reform = b0 + b1*Democratic Control + b2*African-American + b3*Hispanic + b4*Democratic

Control*African-American + b5*Democratic Control*Hispanic +b6* African-American

Incarceration Rate + b7* Hispanic Incarceration Rate + b8* Presidential Margin of Victory +

b9* Democratic Control*Presidential Margin of Victory + b10*FD Severity + b11*Poverty + μ

The results, depicted in Table 3, provide further support of this paper's primary

argument, that the electoral incentives of Democrats to appeal to their African-American and

Hispanic constituents positively impact the likelihood for reform. In states under Democratic

control, as the size of a state's African-American population increases by one percent, the

likelihood of easing felon voting restrictions increases by around 53 percent. Similarly, as the

percent of a Democratically controlled state's Hispanic population increases by one percent, the

likelihood of easing felon voting restrictions increases by nearly 38 percent. Rather than

decreasing the magnitude of the effect, controlling for the alternative hypothesis appears to have

increased the potential magnitude. Furthermore, none of the variables controlling for

incarceration rates among African-Americans and Hispanics or closeness of past presidential elections demonstrate a statistically significant effect on the likelihood of easing felon voting restrictions.[16]

Discussion

Taken together, this paper has demonstrated that the role of the representative must be considered when attempting to understand why reforms easing felon voting restrictions occurred in some states and not others. Despite expectations that the incentive of representatives to maintain "tough on crime" policy positions would hinder their support for reform, I have argued that Democratic representatives in certain situations have an electoral incentive to ease restrictions. Because African-Americans and Hispanics are disproportionately affected by felon voting restrictions and because they have an overall tendency to support the Democratic Party, I contend that in an attempt to expand their constituency and appeal to key subconstituencies, Democrats have an incentive to ease restrictions.

I hypothesized that states under Democratic control with larger African-American and/or Hispanic populations should be more likely to ease felon voting restrictions because of the electoral incentives of these Democratic representatives. Results from the statistical analyses provide support for this hypothesis showing that simply having party control of a state does not impact the likelihood of reform. That is, an incentive must be in place for Democrats to initiate and pass reform. This paper has argued that the incentives behind the easing of felon voting restrictions for representatives is the expansion of their electorate and desire to appeal to key subconstituencies, African-Americans and Hispanics. The statistical analysis provides support for this argument. When Democrats expect to gain from their decision to ease felon voting

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[16] In order to ensure that both the size of a state's African-American and Hispanic VAP could be included in the same model as a state's African-American and Hispanic incarceration rate, I tested for multicolinearity. African-American incarceration rate had the highest VIF score of 8.6.

restrictions, they are more likely to do so. The larger the African-American and Hispanic populations, the greater the potential reward for Democrats, thus outweighing the potential political risks of being identified as "soft on crime."

These findings are significant in that they demonstrate the relationship between a state's political and racial contexts. Previous research has recognized the impact that these two contexts have on felon disenfranchisement laws, however few have considered the interaction between the two. Previous work by Yoshinaka and Grose identify the political vulnerability of representatives to be the key factor in understanding why representatives would choose to ease felon voting restrictions. While I find no evidence that political vulnerability impacts the likelihood of reform, my findings do reiterate an important point made by Grose and Yoshinaka, that the political incentives for representatives play a key role in understanding when reform is likely to occur. However, rather than political vulnerability, constituency characteristics influence representative behavior.

Also noteworthy is the finding that the size of a state's Hispanic population has an effect on felon voting reform. This is significant for two reasons. First, a majority of past scholarship has focused on the relationship between felon disenfranchisement and the African-American population. Considering the racial origins of these restrictions, the initial focus on African-Americans is understandable. However, as research on racial and ethnic politics has evolved, the importance of examining other minorities has been overwhelmingly demonstrated. Considering that Hispanics, along with African-Americans are disproportionately incarcerated and disenfranchised at higher rates than Whites, the study of felon disenfranchisement is ripe for pursuing this line of research. This study demonstrates that expanding the focus to include

Hispanics will provide greater insight into understanding felon disenfranchisement laws across the country.

Second, this finding is noteworthy in that the size of a state's Hispanic population not only has a significant effect in states under Democratic control, but also has an independent influence. For African-Americans, in contrast, this independent effect is not seen. This suggests that perhaps both political parties are vying for the support of this ever-growing population. Hero et al. contend that as the Hispanic population grows, the political importance of this population will be recognized by both political parties, resulting in the competition for their support (2000: 532). Furthermore, a 2007 report by the Pew Hispanic Center[17], shows that the number of Hispanics identifying as independents had increased, leaving them in the position of swing voters desired to be captured by both parties. The findings of this paper supplement this research by providing reason to believe that both political parties behave in ways that seek to appeal to this subconstituency.

Another finding of interest is the continuous effect that the severity of felon voting restrictions has on the likelihood of reform. In line with the findings of Ewald, this study shows that the more restrictive a state's felon voting restrictions prior to reform, the more likely it is to ease those restrictions. Intuitively, this makes sense in that those states with the most restrictive policies only have the option to move their restrictions in one direction or maintain the current policy. In a sense, states with the most restrictive policies have the most room to make reform compared to those with the least restrictive policies. However, contrary to Ewald's study, which shows that the severity of a state's felon voting restrictions prior to reform is the only consistent indicator that significantly effects reform, I show that other factors also have a significant impact on reform after controlling for policy severity. Therefore, in order to fully understand what

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[17] http://pewhispanic.org/files/reports/83.pdf

contributes to a state easing their felon voting restrictions, one must look beyond the initial severity of those restrictions.

Conclusion

The purpose of this paper was to understand what contributed to the increase in the number of reforms easing felon voting restrictions from 1997 to 2008. In order to fully understand why states ease their voting restrictions I contend that the role of the representative must be examined. In particular, it is necessary to understand the incentives that lay behind representative behavior on the issue. This paper has shown that despite the continuing prominence of "tough on crime" rhetoric among politicians, which leads many to expect representatives to strengthen or maintain felon voting restrictions, representatives have in fact passed reform easing such restrictions. What then motivates representatives to do this? I contend that electoral incentives contribute to the actions of representatives. In particular, Democrats in certain contexts should be expected to ease voting restrictions because of their particular electoral incentives.

Through statistical analysis, I find that as the size of the African-American and Hispanic populations increase in Democratic states, the greater the likelihood felon voting restrictions will be eased. I argue that this occurs because Democrats in states with larger minority populations have an electoral incentive to ease restrictions. First, by easing reform, Democrats attempt to expand their electorate. Considering that African-Americans and Hispanics are the most impacted by felon disenfranchisement laws and that they tend to support the Democratic Party, Democratic representatives have an incentive to ease voting restrictions for felons. Depending upon the racial context and the severity of voting restrictions, representatives will have more or less of an incentive to reduce the barriers for felons to vote. Second, representatives attempt to

appeal to key subconstituencies, primarily African-Americans and Hispanics, by easing voting restrictions. Taken together, these findings highlight the important role of the representative, and their incentives, in felon voting reform.

This study contributes to the literature in a few ways. First, it examines how the racial and political contexts of states interact to influence the likelihood of reform. Past studies have examined the political motivations of representatives in felon voting reform, while separately considering the role of race. However, this has prevented a more systematic understanding of the relationship between race and representation. This paper shows that a state's racial context influences the behavior of representatives. Therefore, in order to more fully understand why some states ease felon voting restrictions while others do not, this study has shown it necessary to consider the incentives of politicians and their racial implications.

Second, this study demonstrates that the size of a state's Hispanic population has a significant effect on the likelihood of reform easing voting restrictions for felons. Contrary to the focus on African-Americans, previous research has largely overlooked the relationship between Hispanics and felon disenfranchisement. This research has shown that, regardless of whether or not a state is under Democratic control, the size of the Hispanic population is positively related to the easing of restrictions. These findings may suggest that Hispanics are being pursued by both political parties for their support. Ultimately, these findings demonstrate that further research is needed on the political position of the growing Hispanic population in the United States and their relationship with felon disenfranchisement.

Finally, these findings contribute to the literature on representation in that they show that representatives do not always behave in accordance with the preferences of the majority. In fact, under certain circumstances, scholars like Bishin find that representatives strategically appeal to

subconstituencies. Similarly, this paper has shown evidence that the actions of representatives on felon voting reform are influenced by a minority of constituents, namely African-Americans and Hispanics. Worthy of further pursuit is a direct test of Bishin's subconstituency theory of representation on the easing of felon disenfranchisement reform. Determining how minorities, especially those who are prevented from exerting formal political influence on elected officials, influenced representatives to implement reform is worth pursuit.

Table 1: Baseline Model With and Without Quadratic Race Variables

	Baseline Model Without Quadratic Race Variables			Baseline Model With Quadratic Race Variables		
	B	Robust Std. Error	Odds Ratio	B	Robust Std. Error	Odds Ratio
Political Context						
Democratic Control	-0.4897	0.6346	0.6127	-0.3724	0.5778	0.689
Racial Context						
Percent Black	0.0312	0.0298	1.0317	0.1885	0.1494	1.2074
Percent Black Squared				-0.0061	0.0063	0.9939
Percent Hispanic	0.1074***	0.034	1.1134	0.0686	0.093	1.071
Percent Hispanic Squared				0.0009	0.003	1.0009
FD Severity	1.586***	0.5728	4.8841 0.8633	1.6412***	0.5783	5.1615
Poverty	-0.1469	0.1143		-0.1556	0.1475	0.8558

N = 600
Logged Likelihood= -48.8007
Wald Chi-Square = 21.73
p = .0006
Pseudo R-Square = .2962

p< .01 ***

N = 600
Logged Likelihood = -48.195366
Wald Chi-Square = 20.59
p = .0044
Pseudo R-Square = .3049

p< .01 ***

Table 2: Logistic Regression of Easing Felon Voting Restrictions

	Model A			Model B		
	B	Robust Std. Error	Odds Ratio	B	Robust Std. Error	Odds Ratio
Political Context						
Democratic Control	-0.4897	0.6346	0.6127	-11.0751**	4.7558	0.000015
Racial Context						
Percent Black	0.0312	0.0298	1.0317	0.01695	0.0331	1.0171
Percent Hispanic	0.1074***	0.034	1.1134	0.0917**	0.0362	1.0961
Percent Black* Democratic Control				0.3809**	0.1637	1.4636
Percent Hispanic* Democratic Control				0.2923**	0.1263	1.3395
FD Severity	1.586***	0.5728	4.8841 0.8633	1.5801***	0.5557	4.8557
Poverty	-0.1469	0.1143		-0.2095	0.1348	0.8109

N = 600
Logged Likelihood= -48.8007
Wald Chi-Square = 21.73
p = .0006
Pseudo R-Square = .2962

p< .01 ***

N = 600
Logged Likelihood = -46.542048
Wald Chi-Square = 19.02
p = .0081
Pseudo R-Square = .3288

Table 3: Logistic Regression of Easing Felon Voting Restrictions			
	Model C		
	B	**Robust Std. Errors**	**Odds Ratio**
Political Context			
Democratic Control	-12.2429**	5.1578	0.00000048
Racial Context			
Percent African-American	-0.0183	0.052	0.9817
Percent Hispanic	0.0718	0.0657	1.0745
Percent African-American* Democratic Control	0.4237**	0.1778	1.5377
Percent Hispanic * Democrati Control	0.32 ***	0.1229	1.3771
African-American Incarceration	0.8488	1.2459	2.3368
Hispanic Incarceration Rate	0.1759	3.2117	1.1923
Presidential Margin of Victory	-0.6954	0.6381	0.4988
Presidential Margin of Victory* Democratic Control	1.2255	1.0956	3.4059
FD Severity	1.5785***	0.4324	4.8481
Poverty	-0.2899*	0.1556	0.7483

N = 600
Log Likelihood = -39.13493
Wald Chi-Square = 49.66
p = .0001
Pseudo R-Square = .3261

State	Year
Texas	1997
Delaware	2000
Connecticut	2001
Nevada	2001
New Mexico	2001
Maryland	2002
Alabama	2003
Nevada	2003
Florida	2004
Iowa	2005
Nebraska	2005
New Mexico	2005
Connecticut	2006
Rhode Island	2006
Tennessee	2006
Florida	2007
Maryland	2007

Figure 1: Reforms Easing Felon Voting Restrictions; 1997 - 2008

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