

**Testimony of
Carl Wicklund
Executive Director
American Probation and Parole Association
Before the
Judiciary Committee
Constitution, Civil Rights, and Civil Liberties Subcommittee
United States House of Representatives**

March 16, 2010



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Carl Wicklund

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Introduction

Good afternoon Chairman Conyers, Chairman Nadler and Members of the Committee. Thank you for the opportunity to testify today in support of H.R. 3335, the Democracy Restoration Act. This legislation would restore the right to vote in federal elections to nearly 4 million of our fellow citizens who have a criminal conviction in their past, but who are out of prison and living in the community. Because I believe that voting plays an integral role in the successful reentry of people coming out of prison and trying to reclaim their lives, I urge you to pass the Democracy Restoration Act.

I live in Kentucky, one of the last two states in the country (Virginia is the other) to permanently disenfranchise everyone with a felony conviction unless they receive individual, discretionary, executive clemency.¹ This archaic law disenfranchises over 180,000 Kentuckians, more than a quarter of whom are African-American.² In all, 24% of the African-American population in Kentucky has lost the right to vote for life.³

I have been the Executive Director of the American Probation and Parole Association since 1996. I have over 35 years of experience in the corrections and human services field, including serving as Director of Community Corrections and managing several community-based, private sector programs for offenders and at-risk youth in Minnesota. I am the Vice Chair of the United States Department of Justice Global Justice Information Sharing Initiative Advisory Committee, the Vice Chair of Corrections Operations Subcommittee for the National Law Enforcement and Corrections Technology Advisory Committee,

¹ KY. CONST. § 145.

² JEFF MANZA & CHRISTOPHER UGGEN, LOCKED OUT: FELONY DISENFRANCHISEMENT AND AMERICAN DEMOCRACY Tbl. A3.3, A3.4 (2006).

³ *Id.*

and serve on the FBI Criminal Justice Information Services Advisory Policy Board and the National Governors Association Intergovernmental Justice Working Group, among others. I have been awarded the Florida Association of Community Corrections Lifetime Achievement Award, the first U.S Congress Crime Victims' Rights Caucus Allied Professional Award and the Justice Leadership Award from Family Justice.

The APPA represents over 35,000 individuals in the field of probation, parole and community corrections. We have members in every state, as well as affiliate members in Poland, New Zealand, Australia, Canada, and the European Organization for Probation.⁴ APPA members supervise more than 5 million adults across the United States.

At the American Probation and Parole Association, we work to build a fair, just and safe society where community partnerships create a balance of prevention, intervention and advocacy. We seek to create a system of community justice where a full range of sanctions and services protects public safety by insuring humane, effective, and individualized sentences for offenders, and support and protection for crime victims.

Restoring the right to vote to people who are living and working in the community is central to this core mission. For this reason, the American Probation and Parole Association has been part of the national efforts to restore voting rights to people with criminal convictions. In 2007, we passed a resolution calling for the restoration of voting rights to people under supervision as well as those who have served their sentences.⁵ I currently sit on the Brennan Center for Justice Law Enforcement & Criminal Justice Advisory Council, comprised of police chiefs, corrections officers and prosecutors; the main purpose of the Council is to advocate for voting rights restoration at both the federal and state level.⁶ We have joined dozens of other law enforcement and criminal justice professionals and organizations in signing a letter supporting the Democracy Restoration Act. And APPA members have encouraged voting rights legislation in a number of states, including Kentucky, Maryland, Minnesota, New York, Washington and Wisconsin.

We support the Democracy Restoration Act because we believe that civic participation is integral to successful rehabilitation and reintegration.

Successful rehabilitation and reintegration

One of the core missions of parole and probation supervision is to support the successful transition from prison and jail to the community. Civic participation is an integral part of this transition because it helps transform one's identity from deviant to law-abiding citizen. For this reason, the Democracy Restoration Act is an indispensable part of the reentry process. The bill's

⁴ A full list of APPA affiliates is available at http://www.appa-net.org/eweb/docs/APPA/bod/Affiliate_Reps.pdf.

⁵ See American Probation and Parole Association, Resolution, Restoration of Voting Rights (2007), http://www.appa-net.org/eweb/Dynamicpage.aspx?site=APPA_2&webcode=IB_Resolution&wps_key=3c8f5612-9e1c-4f60-8e8b-1bf46c00138e.

⁶ To read more about the Brennan Center Law Enforcement & Criminal Justice Advisory Council, visit http://www.brennancenter.org/content/pages/law_enforcement_criminal_justice_advisory_council.

requirement that probation and parole officers provide information about voting rights and assist with voter registration is also necessary. These responsibilities would not create an undue burden on probation and parole offices – indeed, they are central to our mission.

The United States is the world’s leader in incarceration, with 2.1 million people currently in our prisons – a 500% increase over the past thirty years.⁷ Each year, over 600,000 people leave prison. Approximately two out of every three people released from prison in the United States are re-arrested within three years of their release.⁸ The combination of the sheer number of people being released from prison every day, and the “revolving door” created by these staggering recidivism rates have forced all of us in the community supervision field to look carefully at the process of reentry – the transition from prison to community – and find innovative ways to ease this reintegration with the ultimate goal of preventing future crime and protecting public safety.

The APPA believes that full civic participation and successful rehabilitation are intuitively linked. One of the greatest challenges facing those who are coming out of prison or jail is the transition from a focus on one’s self as an individual that is central to the incarceration experience, to a focus on one’s self as a member of a community that is the reality of life in our democratic society. While having strong family support and stable employment are critical to a person’s successful transformation from prisoner to citizen, research has determined that one’s identity as a responsible citizen – including volunteer work, community involvement *and voting* – plays a vital role.⁹ Further, having the right to vote and learning how to exercise that right sends a message that these individuals are welcomed back as integral and valuable members of their home communities.

Civic participation has also been linked to reducing recidivism. While measuring a direct causal relationship between voting rights and criminal behavior is difficult, one study tracking the relationship between voting and recidivism found “consistent differences between voters and non-voters in rates of subsequent arrests, incarceration, and self-reported criminal behavior.”¹⁰ In fact, the study found that former offenders who voted were half as likely to be re-arrested than those who did not.¹¹ The study reaffirms that voting is part of a package of pro-social behavior that is linked to desistance from crime. Someone who has a stake in the community, who sees himself or herself as a member of that community, is less likely to offend that community.

Disenfranchisement serves no legitimate law enforcement purpose

⁷ THE PEW CENTER ON THE STATES, ONE IN 31: THE LONG REACH OF AMERICAN CORRECTIONS (Mar. 2009), available at http://www.pewcenteronthestates.org/report_detail.aspx?id=49382; see also MARC MAUER, RACE TO INCARCERATE I (2006).

⁸ RE-ENTRY POLICY COUNCIL, CHARTING THE SAFE & SUCCESSFUL RETURN OF PRISONERS TO THE COMMUNITY 3 (2003), available at <http://www.reentrypolicy.org/publications/1694;file>.

⁹ Christy A. Visher & Jeremy Travis, *Transition from Prison to Community: Understanding Individual Pathways*, 29 ANN. REV. SOC. 89, 97 (2003).

¹⁰ Christopher Uggen & Jeff Manza, *Voting and Subsequent Crime and Arrest: Evidence From a Community Sample*, 36 COLUM. HUM. RTS. L. REV. 193, 213 (2004).

¹¹ *Id.* at 205. The survey was based on longitudinal survey data from a general sample people with felony convictions in St. Paul, Minnesota of the effects of voting participation upon self-reported crime and arrest in the years 1997 to 2000.

Moreover, there is no credible evidence showing that continuing to disenfranchise people who have rejoined the community serves any legitimate law enforcement purpose.

Criminal justice experts typically point to four accepted purposes of criminal penalties: prevention against committing new crimes, deterrence, retribution and rehabilitation.¹² I have already explained that denying the right to vote hinders, rather than fosters, successful rehabilitation. And indeed, disenfranchising individuals after release from prison furthers none of these goals.

Prevention

The prevention, or incapacitation, rationale for punishment is that a person who has committed a crime is likely to do so again and that punishment is therefore necessary to prevent him from breaking the law again. Typically this punishment takes the form of physically incarcerating the individual. As applied to disenfranchisement schemes, however, the prevention justification is unpersuasive.¹³ States are hard pressed to identify evidence that people with felony convictions are prone to commit offences affecting the integrity of elections, and there is no evidence that people on probation and parole have a higher propensity for voter fraud in the states where they are entitled to vote.¹⁴

Deterrence

Similarly, there is no basis for concluding that continuing to disenfranchise people who have rejoined the community deters them from committing new crimes. Deterrence flows from the other penal consequences of a felony conviction, namely a term of incarceration and significant fines. It is unlikely that a person who is not dissuaded by the prospect of a prison sentence will be deterred by the threat of losing his right to vote.¹⁵

Retribution

The law enforcement community and society at large now recognize that a punishment can be morally justified as retribution only if it is proportionate in severity and duration to the crime in question. Blanket disenfranchisement for everyone with a felony conviction is unjustifiably broad. At the same time, the severity of disenfranchisement is undeniable.¹⁶ Laws mandating the denial of voting rights to a person convicted of a felony destroy that citizen's most direct form of participation in the central process of self-government and render him invisible to elected officials. The weakness of the retribution justification is especially poignant for those who may have a reduced sentence, are under court or community supervision, or may have already served their criminal sentences and are seeking to reintegrate into society. To deny them

¹² See Howard Itzhowitz & Lauren Oldak, Note, *Restoring the Ex-Offender's Right to Vote: Background and Developments*, 11 AM. CRIM. L. REV. 721, 730-731 (1973).

¹³ See Pamela S. Karlan, *Convictions and Doubts: Retribution, Representation, and the Debate Over Felon Disenfranchisement*, 56 STAN. L. REV. 1147, 1167 (2004). (Noting that "...incarceration is the paradigmatic incapacitating punishment: It prevents an offender from committing (most) crimes during its duration. But disenfranchisement cannot incapacitate an ex-offender from committing future criminal offenses, except perhaps, from committing an extraordinarily narrow subset of voting-related crimes such as vote selling.").

¹⁴ See Itzhowitz & Oldak, *supra* note 12, at 738-739.

¹⁵ Karlan, *supra* note 13, at 1166.

¹⁶ *Id.* at 1168.

the most basic of rights – the right to vote – is to disregard the assessment of the sentencing judge or jury and the corrections officials who, after review of each individual’s circumstance, deemed them fit to reenter society.

Broad Support in the Law Enforcement & Criminal Justice Field

The APPA is not alone in its support for restoring the right to vote. Other national criminal justice and law enforcement agencies, including the National Black Police Association and the Association of Paroling Authorities International, have passed resolutions in favor of restoring voting rights to people living in the community.¹⁷

And many in the law enforcement field have spoken out in favor of restoring voting rights. One Kentucky prosecutor supporting change to our state’s archaic disenfranchisement laws wrote, “voting shows a commitment to the future of the community.”¹⁸ Similarly, Providence Police Chief Dean Esserman, writing in support of Rhode Island’s 2006 successful referendum restoring voting rights, explained, “denying the vote to people who completed their prison sentence disrupts the re-entry process and weakens the long-term prospects for sustainable rehabilitation.”¹⁹ And Gil Kerlikowske, now the Director of the Office of National Drug Control Policy, wrote when he was Chief of Police in Seattle, “voting is an important way to connect people to their communities, which in turn helps them avoid going back to crime. . . . We want those who leave prison to become productive and law-abiding citizens. Voting puts them on that path.”²⁰

Conclusion

I urge you to pass the Democracy Restoration Act because it promotes successful rehabilitation of formerly incarcerated people, preventing further crime and making our neighborhoods safer. Thank you for the opportunity to testify today. I am happy to answer your questions.

¹⁷ See National Black Police Association, Resolution of Restoring Voting Rights (2008), <http://www.brennancenter.org/page/-/Democracy/NBPA%20resolution.pdf>; Association of Paroling Authorities International, Resolution on Restoring Voting Rights (2008), http://www.apaintl.org/en/aw_resolutions_voting.html.

¹⁸ R. David Stengle, *Let’s Simplify the Process for Disenfranchised Voters*, CENT. KY. NEWS-J., Jan.28, 2007, available at <http://www.brennancenter.org/page/-/Democracy/Stengle%20Kentucky%20op%20ed%201-28-07.pdf>.

¹⁹ Dean Esserman & H. Phillip West, *Yes on Question 2 – Freed Felons Should Have a Voice*, PROVIDENCE J., Sept. 25, 2006 at C4.

²⁰ Gil Kerlikowske & John Lovick, *Restore Voting Rights to Ex-Felons*, SEATTLE POST-INTELLIGENCER, Feb. 12, 2009, available at http://www.seattlepi.com/opinion/399906_votingrights13.html For more information on law enforcement support for restoring the right to vote, see Erika Wood, *Restoring the Right to Vote* 9-11(2009) and http://www.brennancenter.org/content/pages/law_enforcement_criminal_justice_advisory_council.

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SUMMARY

Have extensive experience in management of private and public correctional and human service programs, agencies and associations. Hold or have held many leadership positions in professional organizations, policy task forces and community organizations. Recipient of the first annual Minnesota Citizens Council on Crime and Justice - Gisela Konopka Award (1984) for humane and creative treatment of juveniles, the 2001 Florida Association of Community Corrections Lifetime Achievement Award, the first U.S. Congress Crime Victims' Rights Caucus Allied Professional Award (2006) and the Justice Leadership Award from Family Justice (2007).

PROFESSIONAL EXPERIENCE

Council of State Governments, Lexington, KY

1995 to present

Executive Director of the American Probation and Parole Association

Direct staff activities (including, but not limited to: training institute coordination; membership services; publication sales; grant development and management; committee coordination and support; research; training and technical assistance initiatives and information clearinghouse services), manage finances and coordinate all other activities related to the American Probation and Parole Association (APPA) an international association that receives association management services from the Council of State Governments. Previously served as the Criminal Justice Policy Analyst, Special Projects Coordinator and Training and Technical Assistance Manager until appointment as Executive Director in August 1996.

Dakota County Community Corrections, Hastings, MN

1995

Developer - New Chance Extended Day Program

Contracted to manage the development of an intensive community-based, non-residential program for serious juvenile offenders who would be otherwise placed in or remain in institutional settings. Duties included: budget management; facility renovation; staff selection, training and supervision; treatment program development and implementation; furniture and equipment purchasing; and coordinating referrals.

Dodge-Fillmore-Olmsted Community Corrections, Rochester, MN

1989 to 1995

Court Services Director

Managed adult and juvenile probation/parole, pretrial and pre-sentence investigative services for a three county, community corrections system. Duties included: staff selection, training and supervision; development and management of a budget, diversification of volunteer and intern usage, assisting in the development of a correctional support service center and juvenile detention center, implementation of a system of scaling and capping of caseloads, implemented specialized caseloads for sex offenders, female offenders and misdemeanor offenders.

Freeport West, Inc., Minneapolis, MN

1978 to 1989

Program Developer

Developed a diverse group of six, community-based correctional/human service programs for high-risk inner-city youth and their families (residential re-entry treatment program for serious juvenile offenders; an in-home services program for families of juvenile correctional clients; an independent living skills training/outreach program for high-risk and/or homeless youth; and a group of residential programs for developmentally disabled, court-involved youth). Managed the service delivery and budgets of all programs. Negotiated government contracts. Recruited, hired, trained and supervised management and line staff.

- Minnesota Department of Corrections -- Serious Juvenile Offender Program, St. Paul, MN 1979 to 1981
Community Liaison Worker
Contracted to supervise and mentor juvenile parolees through strengthened community networks and job opportunities.
- H.O.M.E.S., Inc. -- Project 2002, Minneapolis, MN 1975 to 1978
Supervisor/Community Liaison
Supervised staff and developed and coordinated community resources for a residential independent living skills program for behavior problem/court-involved, dually-diagnosed mentally ill and developmentally disabled young adults. Managed the budget, negotiated government contracts and developed program policies and procedures for a new program. Served as the liaison to employment development programs.
- Abiding Place Group Home, Mankato, MN 1975
Program Director
Developed a group home for juvenile offenders. Renovated a facility, hired and supervised staff, developed program policies and procedures, managed the budget and directed treatment functions.
- Guideline Group Home, Mankato, MN 1974 to 1975
Director
Directed all financial and treatment functions of a co-ed group home for juvenile offenders.
- St. Peter Youth Center, St. Peter, MN 1972 to 1974
Developer/Director
Renovated, developed, marketed and managed a citywide youth center for adolescents.

EDUCATION/CERTIFICATIONS

- Gustavus Adolphus College, St. Peter, MN -- B.A. Psychology 1974
Qualified Mental Retardation Professional 1978
Grantsmanship Center, Program Planning and Proposal Writing 1981
Certified Sexual Assault Counselor 1985

ORGANIZATIONS/INVOLVEMENTS

U.S. Dept. of Justice – Global Justice Information Sharing Initiative Advisory Committee	1998 to present
Vice-chair	2008 to present
Executive Steering Committee	2004 to present
Privacy and Information Quality Working Group	2004 to present
Chair	2006 to present
Intelligence Working Group/Criminal Intelligence Coordinating Council	2005 to present
FBI Criminal Justice Information Services Advisory Policy Board	2003 to present
National Criminal Information Center subcommittee	2003 to present
International Advisory Board for the Living Laboratory Project	1998 to present
Addiction Technology Transfer Center National Advisory Committee	1998 to present
Nat'l. Law Enforcement & Corrections Technology Advisory Committee	2000 to present
Vice Chair Corrections Operations	2000 to present
Association of Paroling Authorities, International	2000 to present
National Crime Prevention Council Embedding Prevention Advisory Committee	2000 to 2007
Drug Free America Foundation Advisory Board	2001 to 2006
The Advocate Center for Training and Treatment National Advisory Board	2001 to present
Kentucky Embedding Prevention Advisory Committee	2001 to present
National Center for Justice Planning Steering Committee	2001 to 2006
Nat'l. Governors Assn. – Intergovernmental Justice Working Group	2002 to present
Neighborhood Watch Nat'l Advisory Committee	2003 to 2006
National Criminal Justice Association	1996 to present
Academy of Criminal Justice Scientists	1996 to 2005
The Justice Fellowship	1996 to present
American Society of Association Executives	1997 to present
Internat'l. Certification & Reciprocity Consortium/Alcohol & Other Drug Abuse, Ad. Bd.	2004 to present
National Institute of Corrections Transition from Prison to Community Advisory Committee	2003 to 2005
NIC/Urban Institute Re-entry from Jail Advisory Committee	2005 to present
American Probation and Parole Association	1990 to present
National Program Committee	1992 to 1995
Juvenile Justice Committee, Chair	1993 to 1995
Minnesota Corrections Association	1982 to 2001
President Elect/President	1992 to 1995
Education & Training Committee, Chair	1983 to 1990
Board of Directors	1985 to 1995
Fall Institute, Chair	1983 to 1985
Minnesota Association of Child & Youth Care Workers	1989 to 1993
Minnesota Association of Women in Criminal Justice	1986 to 1996
Minnesota Commission on Juvenile Corrections	1987 to 1991
Minority Concerns Committee, Chair	1987 to 1991
Minnesota Coalition for Homeless Youth	1986 to 1989
Rochester Building Equality Together, Youth Conflict Resolution Committee	1990 to 1995
Minnesota Association of County Probation Officers	1991 to 1996
Greater Minneapolis Girl Scout Council	1984 to 1990
Partners Program Curriculum Developer	1984 to 1986
Partners Advisory Board, Chair	1986 to 1990
National Association for the Advancement of Colored People, Rochester Branch	1991 to 1996
Secretary	1992 to 1994
First Vice President	1994 to 1995
Youth Commission of Olmsted County	1992 to 1995
Co-chair	1993 to 1995
Boy Scouts of America, Den Leader	1994 to 1995
Campaign for Effective Crime Policy	1994 to 2001
Youth Law Center, Advisory Committee—Juvenile Justice Interdisciplinary Project	1996 to 1998
East Jessamine Middle School Sight-Based Decision Making Council	1999 to 2001
East Jessamine High School Sight-Based Decision Making Council	2001 to 2003
Jessamine County School System's Drug Prevention Task Force	2000 to present
Jessamine County School System's Secondary Planning Task Force	2000 to 2003

GENERAL QUALIFICATIONS

- Attended numerous seminars, workshops, intensive training programs and classes on a variety of subject areas related to correctional and human service programming and strategies, as well as, management/supervision issues and improvements, board development and support, and public policy development and rejoiners.
- Served as a consultant to several public and private programs, institutions, agencies, organizations and initiatives providing technical assistance in areas including, but not limited to: reorganization or improvement of probation and parole systems, female offenders; juvenile offenders, mentally ill offenders, sex offenders, victims of crime; performance-based measures, total quality management, inter-agency collaborations, agency re-organization, treatment strategies for high risk juveniles, offender drug and alcohol abuse; intensive supervision, community involvement, information sharing protocols and systems, caseload planning and management, interstate compacts, special population offenders, victim issues, grant reviews, strategic planning and curriculum development. Serve and have served as an advisor to several national, statewide and local initiatives.
- Presented on several topics, as well as conducted several workshops and classes on a variety of subject areas locally and nationally.
- Faculty for the National Judicial College.
- Have had articles published in national journals and publications.
- Have provided written and oral testimony on several occasions to legislative and regulatory committees.
- Provided policy and procedure development technical assistance.
- Have served on and reported to both private and public governing and advisory boards.
- Represented the field of community corrections on numerous task forces, focus groups and planning committees.
- Have provided interviews to hundreds of national, state and local print and electronic media sources.
- Have developed and administered several nationally-based grant projects, including, but not limited to:
 - evaluation of intensive supervision programs;
 - development and implementation of youth court programs;
 - capacity building for substance abusing youth in the juvenile justice system;
 - drug testing procedures and practices;
 - enhancing and expanding community-based correctional options;
 - development of community justice initiatives;
 - management of sex offenders in the community;
 - improvement of victim services in community corrections;
 - development and implementation of juvenile holdover programs;
 - melding restorative justice and “what works” strategies;
 - promising practices in restitution;
 - training for legislators and judges on correctional policies;
 - electronic supervision technologies;
 - offender drug and alcohol abuse;
 - implementing performance-based measures in community corrections;
 - sentencing and supervision of domestic violence offenders;
 - integrated case management information systems and information sharing systems;
 - a comparative analysis of domestic violence supervision caseloads;
 - implementing prevention practices in community corrections;
 - development of the functional needs for an information system for the Interstate Compact for Adult Offender Supervision;
 - supervision and intervention strategies for female offenders in the community;
 - engaging families of offenders;
 - impaired driver supervision and intervention strategies;
 - offender re-entry initiatives and public policies;
 - recognizing and responding to elder abuse;
 - caseload/workload allocation;
 - methamphetamine involved offenders;
 - substance abusing tribal offenders;
 - community corrections response to Prison Rape Elimination Act;
 - tribal justice; and
 - restitution collection training.