



SPLC
Southern Poverty
Law Center

Written Statement of the
Southern Poverty Law Center

John Paul Taylor

Field Director for Rights Restoration

Before the Georgia Senate Study Committee on Revising Voting Rights for Nonviolent
Felons

LaGrange, Georgia

October 22, 2019

Introduction

Chairman Robertson and members of the Committee: thank you for the opportunity to speak before you today and for convening this Committee. My name is John Paul Taylor and I am the Field Director for Rights Restoration for the Voting Rights Practice Group at the Southern Poverty Law Center.

Founded in Montgomery, Alabama, an epicenter of the civil rights movement, the Southern Poverty Law Center (SPLC) is dedicated to seeking justice for the most vulnerable members of our society. SPLC's Voting Rights Practice Group, based in Atlanta, Georgia, is comprised of legal, data and community organizing experts. SPLC is committed to addressing systematic voter suppression to ensure that all citizens can exercise their fundamental right to vote. The Voting Rights team's model to combat widespread voter disenfranchisement utilizes an integrated-advocacy approach. This approach includes a variety of public education efforts, legislative reform and advocacy, and impact litigation to defend the civil rights of communities that are routinely the subject of voter suppression tactics.

The returning citizen community is often an overlooked community in the national dialogue surrounding voting rights. Criminal disenfranchisement laws across the country prevent millions of Americans from casting ballots due to prior convictions.¹ During the 2016 election cycle, an estimated 6.1 million Americans were blocked from the ballot box due to criminal disenfranchisement laws.² In Georgia, there are nearly 250,000 people living with felony convictions that are currently ineligible to vote – nearly 60% of whom are Black.³ Additionally, Georgia purges more voters with felony convictions, half of whom are also Black people, than any other state in the nation.⁴ Several states include Hispanic/LatinX people as part of their white population with regard to criminal justice statistics. However, national data from the Pew Research Center suggests that non-white Hispanics are also overrepresented in the prison population.⁵

Georgia's neighbor Alabama previously forbade anyone convicted of a "crime involving moral turpitude" from voting⁶. This system was inconsistent, incoherent, and disproportionately disenfranchised low-income and Black Alabamians. In 2017, before moral turpitude was defined,

¹ Brennan Center for Justice, *Criminal Disenfranchisement Laws Across the United States*, available at <https://www.brennancenter.org/our-work/research-reports/criminal-disenfranchisement-laws-across-united-states> (last visited October 2019).

² Jean Chung, *Felony Disenfranchisement: A Primer*, available at <https://www.brennancenter.org/our-work/research-reports/criminal-disenfranchisement-laws-across-united-states> (last visited October 2019).

³ *State-by-state Data*, The Sentencing Project, available at <https://www.sentencingproject.org/the-facts/#map> (last visited October 2019).

⁴ Angela Caputo, *A Southern Strategy, Redux (2018)*, *APM Reports*, available at <https://www.apmreports.org/story/2018/11/01/former-confederate-states-purge-felons-from-voting-lists> (last visited October 2019).

⁵ John Gramlich, *The Gap Between the Number of Blacks and Whites in Prison is Shrinking*, available at <https://www.pewresearch.org/fact-tank/2019/04/30/shrinking-gap-between-number-of-blacks-and-whites-in-prison/> (last visited October 2019).

⁶ Ala Const. Section 182, available at <https://law.justia.com/constitution/alabama/CA-245722.html>.

about 280,000 Alabamians had lost their right to vote because of a prior felony conviction. A full 15% of Black voters in the state had been permanently stripped of their voting rights.

Today, we would like to share our lessons learned from our direct services work around moral turpitude laws, including the origin of Alabama's law and the subsequent application of the 2017 Definition of Moral Turpitude Act.

Criminal Justice Statistics in Georgia

In order to properly address the problematic nature of moral turpitude laws, it is imperative to first analyze the state of Georgia's criminal justice system. According to the Sentencing Project, Georgia has the ninth highest incarceration rate in the nation.⁷ Despite accounting for 32.4%⁸ of the state's overall population, Black people are disproportionately represented in the prison and jail population. Black people are incarcerated at more than three times the rate of their white counterparts.⁹ Therefore, Black people in Georgia are more likely to be disenfranchised as a result of voting rights restrictions based on criminal convictions.

Because the state often requires formerly incarcerated people to satisfy their legal financial obligations (LFO) before terminating their parole and probation, the state's population under supervision is exorbitant. In fact, the state had the highest rate of people under supervision due to felony convictions in the country.¹⁰ Further, the majority of people under supervision are individuals convicted of nonviolent offenses, such as property and drug offenses.¹¹ Data recently obtained from the Department of Community Supervision, requested and analyzed by Reform Georgia, better illustrates the impacted community.

Of the 204,365 people on probation as of December 31, 2017¹²:

- 102,638 people were Black (50%)
- Nearly 70% of those under supervision were convicted of a nonviolent property or drug offense

Of the 21,065 people on parole as of December 31, 2017¹³:

- 11,623 people were Black (roughly 55%)
- Nearly 60% of those on parole were convicted of a nonviolent property or drug offense

⁷ *Id.* at 3.

⁸ *Quick Facts Georgia*, United States Census Bureau, available at <https://www.census.gov/quickfacts/GA> (last visited October 2019).

⁹ *Id.* at 3.

¹⁰ Andrea Young, *How Georgia's Probation System Squeezes the Poor and Feeds Mass Incarceration* (2018), ACLU of Georgia, available at <https://www.aclu.org/blog/criminal-law-reform/how-georgias-probation-system-squeezes-poor-and-feeds-mass-incarceration> (last visited October 2019).

¹¹ This information was provided to Reform Georgia as a result of an Open Records Request (ORR) to the Georgia Department of Community Supervision.

¹² *Id.* at 11.

¹³ *Id.* at 11.

Should the state create a list of disqualifying felony convictions, we strongly urge the Members of the Committee ensure that criminal disenfranchisement laws do not target or disproportionately impact Black voters.

Background on Alabama’s Moral Turpitude Laws

In 2017, Alabama passed the Definition of Moral Turpitude Act (HB 282)¹⁴. HB 282 was a step forward because it finally defined the term “moral turpitude,” that did not encompass all felony convictions, thereby limiting the number of disenfranchising crimes. Prior to HB 282’s passage, county registrars enjoyed almost complete discretion in determining which crimes were and were not disqualifying offenses for purposes of voting. The result was non-uniformity across the state in the enforcement of Alabama’s felon disenfranchisement law and people convicted of the same crime receiving contrary information regarding their voter eligibility solely based on the county in which they lived. Now, HB 282 creates uniformity from county to county, ensures that individuals convicted of certain crimes never lose their voting rights, and allows people previously removed from the voter rolls to be registered. In 2016, a Sentencing Project Report estimated that 286,000 Alabamians could not vote because of a felony conviction¹⁵. HB 282 now allows tens of thousands of people to retain their voting rights and play a significant role in protecting our democracy.

Unfortunately, while HB 282 expanded the number of people who never lose their right to vote due to a criminal conviction, the list of crimes considered to involve “moral turpitude,” still disparately impacts people of color. In creating the list of forty enumerated disqualifying crimes, the legislature offered no rationale behind why certain crimes were selected or left off. The list is primarily composed of the offenses that Alabama had already deemed ineligible for Certificates of Eligibility to Register to Vote (CERV), such as murder, rape, and acts of terrorism¹⁶, and what are commonly considered “street crimes,” such as theft of property, burglary, and drug trafficking. The list does not include what are commonly termed “white collar crimes,” such as, embezzlement of public funds, criminal campaign finance violations, and tax evasion.

Lessons Learned from the Alabama Voting Rights Project

In an effort to educate directly impacted people about the new law, the Southern Poverty Law Center and the Campaign Legal Center formed the Alabama Voting Rights Project (AVRP) in 2018, hiring fellows to do direct service work to educate citizens on the change in the law and guide them through the rights restoration process. In one year, as a former AVRP fellow, I directly assisted 875 people in restoring their right to vote or determining their eligibility status. Additionally, I trained 759 community members on how to educate and guide others through the registration process.

As an Outreach Fellow working for the AVRP, I found that the crimes of moral turpitude list created new barriers. Due to the lack of public education efforts by the state and local elections officials, I encountered many Alabamians whose registration forms had been rejected even

¹⁴ H.B. 282, Reg. Sess. 2017 (Ala 2017).

¹⁵ *Id.* at 3.

¹⁶ *Id.* at 14.

though their rights had been restored under HB 282. The majority of the citizens I worked with simply did not have the time or resources to inquire about the process on their own. In order to qualify for the Certificate of Eligibility to Register to Vote, a person must have paid off all of their legal financial obligations on the disqualifying convictions. This is an absolute barrier for many, many Alabamians and a modern-day poll tax. Alabama has notoriously punitive fines and fees, so high that for many there is no hope of ever being able to pay them off. When voting rights depends on an ability to pay, it is a poll tax.

The absence of a list of disqualifying offenses created lots of confusion and the lack of public awareness on the law change turned many of these eligible voters away from the process. Another common area of confusion is determining which out-of-state and/or federal convictions disenfranchise a person. The definition of moral turpitude makes clear that only out-of-state or and federal convictions that are equivalent to the crime of moral turpitude will strip an Alabama citizen of the right to vote.

One returning citizen that I had the honor of working with is named Mr. Gregory Butler. Mr. Butler was convicted of federal drug trafficking and had completed his sentence. In September of 2018, we assisted Mr. Butler with his application for a CERV with the Board of Pardons and Paroles (BPP). They sent Mr. Butler a letter stating none of his felony convictions were disqualifying. Mr. Butler registered to vote and was placed on the voter roll. On March 26th, Mr. Butler received a certified letter from the Jefferson County Board of Registrars (BOR) informing him that he would be removed from the voter roll because he committed a crime of moral turpitude. They did not specify which crime was considered disqualifying and Mr. Butler was given only 30 days to appeal this decision. Mr. Butler and I visited the BOR to inquire about his ineligibility. The BOR informed us that the county's attorney determined that his possession of a controlled substance charge in 2009 was a disqualifying offense. However, possession of a controlled substance did not disqualify individuals from registering to vote in Alabama, according to the state's official crimes of moral turpitude list. Mr. Butler's final disposition was NOL PROSS, meaning his case was ultimately dismissed, in Alacourt, an Alabama court records database, which I pulled up for reference. They then sent us down to the county attorney's office for further investigation. We were able to meet with Assistant County Attorney Donald Carroll. I gave Mr. Carroll all of the information related to Mr. Butler's offense, including the letter from BPP stating that he did not need a CERV to register to vote. Mr. Carroll determined that indeed Mr. Butler was not disqualified from voting and Mr. Butler was allowed to remain on the voter rolls. The process was confusing, difficult, and time-consuming and, without an advocate, Mr. Butler would have given up like so many others before him. Moreover, several of the citizens I encountered were convicted of nonviolent offenses years ago. Even though they had not been convicted of any offenses since their original term of incarceration, they remained ineligible to vote.

A common misconception about the returning citizen community is their perceived apathy towards civic engagement. Mr. Richard Williams was convicted of theft of property 1 in 2007 – his first and only conviction in Alabama. He completed all of the terms of his sentence, including his supervised release. He initially tried to register to vote in 2016, but the Huntsville Board of Registrars rejected his application. Mr. Williams contacted the Probation and Parole Office in Huntsville to inquire about his eligibility status. He was told by the Probation and Parole Office

that he needed to apply for and receive a pardon in order to restore his voting rights. Mr. Williams applied for a pardon, but never heard anything from the BPP. In 2018, I met Mr. Williams through my outreach efforts in Huntsville. Upon verifying Mr. Williams' information, we concluded that he did in fact meet all requirements for a CERV. We completed the paper work and mailed the application the very same day. After several weeks, Mr. Williams informed me that he had received his CERV and registered to vote. During the 2018 midterm election, Mr. Williams voted in Alabama for the first time in his life despite all of the obstacles he encountered during the process.

The two experiences I just shared, along with those of the many people I assisted during my time with AVR, show that even a law that is meant to expand voting rights can still result in people being discouraged from going through the process because of the roadblocks and misinformation. Therefore, we come before this Committee to encourage the efforts you are making because voting is a fundamental right, but to also highlight for you the potential pitfalls if it is not done in a consistent, effective manner.

Recommendations

The information we have provided helps to illustrate the history and disproportionate impact of criminal disenfranchisement laws on marginalized communities and, in particular, the Black community. SPLC recommends the following policy proposals to amend Georgia's felon disenfranchisement law:

1. Develop a clear and succinct list of disqualifying felony convictions that excludes nonviolent offenses and restores the voting rights of as many people as possible.
2. Outstanding legal financial obligations should not be a barrier to reinstating voting rights for people with felony convictions.
3. Train state and local election officials and poll workers so that they provide the public with accurate information regarding the scope of Georgia's new moral turpitude law.
4. Mount a statewide public education campaign that includes the dissemination of information at government agencies, libraries, and other facilities where the public frequents.
5. Convene a meeting of impacted persons so that their voices are heard with respect to the adoption and implementation of the new law.

We strongly encourage the continued engagement of the public during this process and are happy to provide additional resources to assist the Committee in making its final recommendations.

Thank you for your time and I welcome any questions you may have.