

Diminished Voting Power in the Latino Community: *The Impact of Felony Disenfranchisement Laws in Ten Targeted States*



A Report by MALDEF, A Collaborative Partner in the Right to Vote Campaign



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Diminished Voting Power in the Latino Community: *The Impact of Felony Disenfranchisement Laws in Ten Targeted States*

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MALDEF is a national non-profit organization whose mission is to protect and promote the civil rights of the more than 40 million Latinos living in the United States. Working to ensure that there are no obstacles preventing this diverse community from realizing its dreams, MALDEF labors to secure the rights of Latinos, primarily in the areas of employment, education, immigrants' rights, political access, and public resource equity. MALDEF seeks to achieve these objectives and goals through advocacy, community education, leadership development, and litigation.

MALDEF's goal is to foster sound public policy, laws, and programs that safeguard the rights and expand opportunities for Latinos to participate fully in our society and make positive contributions. To find out more about MALDEF's work, please see our website at www.maldef.org.

Right to Vote

The **RIGHT TO VOTE CAMPAIGN** was launched in January 2003 as a national collaborative campaign to remove barriers to voting faced by people with felony convictions, so they may freely participate in the democratic process. To achieve this goal, we aim to change policies, practices, and perceptions concerning felony disenfranchisement at the local, state and national level. The campaign was first launched by eight national civil rights and public interest organizations, including the ACLU, The Brennan Center for Justice, Demos, MALDEF, NAACP, NAACP Legal Defense and Education Fund, People for the American Way Foundation, and The Sentencing Project.

These organizations have established partnerships with state-based leaders, organizations and coalitions in five targeted states, including Maryland, Alabama, New York, Florida and Texas. To find out more about the Campaign and how the Campaign can partner with leaders and organizations in these five targeted states and others, please contact the Right to Vote Campaign office at (212) 965-0400.

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EXECUTIVE SUMMARY

State felony disenfranchisement laws exclude 4.7 million adult citizens from exercising the most fundamental right of our democracy – the right to vote.

Among the 4.7 million disenfranchised citizens, approximately 1.8 million are African-American. Through this statistic alone, it is clear that felony disenfranchisement laws have a disproportionate negative effect on the African-American community. This report sets out to explore the question: What effect do felony disenfranchisement laws have on *Latinos*?



The goals of this project are to answer several data questions: What is the state of the data regarding Latino ex-felons, which provide the basis for determining the felony disenfranchisement rates for Latinos? Do the data indicate either in overall numbers or in rates that felony disenfranchisement is an issue which the Latino community must confront? Are there states where Latinos may be affected either in overall numbers or in percentages in a way that requires us to develop a strategy that includes targeted areas that may differ from more general data collections or data collections specifically targeting African-Americans?

The following are the major conclusions we reached by studying Latino data on felony disenfranchisement in the ten selected states of: Arizona, California, Florida, Nebraska, Nevada, New York, North Carolina, Texas, Virginia, and Washington:

Conclusion #1: Significant numbers of Latinos are prohibited from voting by felony disenfranchisement laws.

Conclusion #2: Generally, Latinos have disproportionately higher rates of disenfranchisement compared to their presence in the voting age population.

Conclusion #3: Generally, Latinos are more likely to be disenfranchised than the general population due to felony disenfranchisement laws.

Conclusion #4: When the disenfranchisement rates are compared to only citizens of voting age (removing the non-citizens), the impact of the felony disenfranchisement laws on Latino citizens is greater.

Conclusion #5: The more restrictive felony disenfranchisement laws have a direct correlation to the size of the disenfranchised population.

Conclusion #6: Even when a large state does not permanently disenfranchise persons convicted of felonies, laws that deny citizens the opportunity to vote in a large state have the effect of disenfranchising large numbers of Latinos.

Conclusion #7: The data imply that non-Latino whites are very likely to be under represented among those persons affected by felony disenfranchisement laws, and thus not as affected as African-Americans or Latinos.

Conclusion #8: Latinos and African-Americans are both negatively affected at disproportionate rates by felony disenfranchisement laws.

Conclusion #9: The rates of disenfranchisement for African-Americans are generally worse than those for the Latino community.

Conclusion #10: More information is needed to better determine how disenfranchisement laws affect the Latino community.

A clear result emerges from this first comprehensive study to determine the impact of felony disenfranchisement laws on the Latino community. Latinos are greatly affected by these restrictive laws, and the Latino community's political power is diminished. In the ten states studied in this report, half a million Latino citizens cannot vote. There are even more Latinos who cannot exercise their right to vote in many other states. As we begin a major election year, now is the time to evaluate the impact of these laws and to do something to change them. Until they are changed, fathers, mothers, uncles, aunts, grandparents, and cousins in the Latino community will have less ability to shape the decisions made by elected officials that affect the children in our community every day.

I. INTRODUCTION

Upon the founding of the United States, the right to vote, the very basis for the democracy that Americans cherish, was only available to an estimated 12% of the population.¹ Two and a quarter centuries later, there is one significant segment² of the adult citizen population that is denied that basic right: persons prohibited from voting by felony disenfranchisement laws. This report is designed to begin an exploration of the extent to which Latinos³ are affected by these laws.



The federal government has played a significant role in our country's voting laws by, for example, ensuring African-Americans and other minorities,⁴ women,⁵ and 18-year-olds⁶ all have the right to vote. It also has set some basic minimum standards regarding registering voters⁷ and other voting operations.⁸ Despite this important and significant role of the federal government in voting in our country, state and local governments create most laws affecting which people can vote in our country. Historically, states have limited voting to adults despite the fact that children are as much affected by our laws as adults. Since 1926, all states also have limited voting to citizens⁹ despite the fact that non-citizens, both those here legally and those here in an undocumented status, are as affected by our laws as citizens.

Most Americans now take for granted that suffrage is limited to adult citizens. Less known is the fact that states continue to disenfranchise a class of adult citizens, those who have been convicted of felonies. State laws vary in this area substantially.¹⁰ Only two states – Maine and Vermont – and Puerto Rico allow convicted felons to vote even when they are in prison.¹¹ The remaining states prohibit convicted felons from voting at least temporarily,¹² by disenfranchising convicted felons while they are incarcerated, on probation, on parole, for a set period after they complete probation and/or parole, and, in some cases, for life. Altogether, the state felony disenfranchisement laws exclude 4.7 million adult citizens from exercising the most fundamental right of our democracy – the right to vote.¹³

Among the 4.7 million disenfranchised citizens, approximately 1.8 million are African-American.¹⁴ Through this statistic alone, it is clear that felony disenfranchisement laws have a disproportionate negative effect on the

¹Nancy Northup, Brennan Center for Justice at New York University School of Law, Presentation at The Sentencing Project's National Symposium on Felony Disenfranchisement, Sept. 20, 2002.

²Another segment of the adult citizen population that is disenfranchised is the mentally disabled. This report does not address this issue.

³MALDEF uses the terms "Latino" and "Hispanic" interchangeably in this report.

⁴U.S. Const. Amend. XV; Voting Rights Act of 1965, 42 U.S.C. Section 1973 *et seq.*

⁵U.S. Const. Amend. XIX.

⁶U.S. Const. Amend. XXVI.

⁷National Voter Registration Act of 1993, 42 U.S.C. Section 1973gg *et seq.*

⁸Help America Vote Act of 2002, Pub. L. No. 107-252 (2002).

⁹Jamin B. Raskin, Legal Aliens, Local Citizens: The Historical, Constitutional, and Theoretical Meanings of Alien Suffrage, 141 U. Pa. L. Rev. 1391, 1397 (1993).

¹⁰See Jamie Fellner and Marc Mauer, The Sentencing Project and Human Rights Watch, Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States (Hereinafter "Sentencing Project Report") (1998); see also Nkechi Taifa, Re-Enfranchisement: A Guide For Individual Restoration of Voting Rights in States That Permanently Disenfranchise Former Felons (2002); Elizabeth Simson, Justice Denied: How Felony Disenfranchisement Laws Undermine American Democracy (2002).

¹¹Demos, Restoring Voting Rights to Citizens with Felony Convictions (2002).

¹²*Id.*

¹³Christopher Uggen and Jeff Manza, Denying Felons and Ex-Felons the Vote: The Political Consequences, Past and Future, 2002 at 1 (IPR Policy Brief Vol. 1 No. 2, Feb. 2002).

¹⁴*Id.*

African-American community. This report sets out to explore the question: What effect do felony disenfranchisement laws have on *Latinos*?

MALDEF began studying felony disenfranchisement in 2002 as a collaborative partner in the Right to Vote Campaign. Early in the process, MALDEF discovered that little research existed on how many people in the Latino community were affected by felony disenfranchisement laws.

Latinos make up 13% of the population,¹⁵ yet Latinos comprise 16% of the state and federal prison and jail population.¹⁶ The Building Blocks for Youth Initiative released a national study last year, the first of its kind, finding that Latino youth also are incarcerated disproportionately in juvenile and adult correctional facilities.¹⁷

Despite these national statistics in the criminal justice field, there is inadequate data with respect to Latino incarcerations. Not all states accurately report the data on Hispanics, there is no standardized data collection across all states, and the state justice systems vary with respect to what data they collect and how they check for the accuracy of the data. The recent Building Blocks for Youth report confirmed these same problems exist in the data on Latino youth caught up in the criminal and juvenile justice system.¹⁸

The most commonly referenced reports in the felony disenfranchisement field make general references to Latinos being disproportionately affected by felony disenfranchisement laws, but do not provide overall national numbers or data broken down by state. Because Latinos are convicted disproportionately in the criminal justice system, it is reasonable to conclude that felony disenfranchisement laws disproportionately affect Latinos. Latino disenfranchisement through these laws will be compounded even more in the future based on the high rate of growth the Latino population has maintained over the last decade. There is no national data on Latinos in this area, nor is there data on the extent and location of the disenfranchisement. Without such data, it is difficult to propose a strategy for addressing Latino felony disenfranchisement on either the national or state level.

MALDEF decided to undertake the goal of trying to collect and estimate data on the matter. MALDEF conducted the Latino felony disenfranchisement data project from September 2002 until March 2003. The goals of this project are to answer several data questions: What is the state of the data regarding Latino ex-felons, which provide the basis for determining the felony disenfranchisement rates for Latinos? Do the data indicate either in overall numbers or in rates that felony disenfranchisement is an issue which the Latino community must confront? Are there states where Latinos may be affected either in overall numbers or in percentages in a way that would cause us to develop a strategy that includes targeted areas that may differ from more general data collections or data collections specifically targeting African-Americans?

The study found that Latinos tended to be disproportionately affected by state felony disenfranchisement laws under a variety of circumstances. However, the study also found that much of the information collected by agencies such as the state Departments of Corrections is suspect or incomplete respecting Latinos, so even the best estimates on the laws' effect on the Latino community that this study could produce might be inconclusive. Since much of the data was unreliable, this study also concludes by proposing to examine the data question more thoroughly in the context of a complete analysis of all 50 states.

¹⁵U.S. Census Bureau, Resident Population Estimates of the U.S. by Sex, Race, and Hispanic or Latino Origin, April 1, 2000, July 1, 2000, and July 1, 2001, www.census.gov.

¹⁶Bureau of Justice Statistics, Prison and Jail Inmates at Midyear 2001 (April 2002, Revised May 10, 2002).

¹⁷Francisco A. Villarruel and Nancy Walker, *Donde Esta la Justicia? A Call to Action on Behalf of Latino and Latina Youth in the U.S. Justice System*, Building Blocks for Youth (2002).

¹⁸*Id.*

II. METHODOLOGY |

A. Selection of States to Study

MALDEF decided to look at ten states, believing that a reasonable sample size to begin researching how different states' Latino communities would be affected by felony disenfranchisement laws. In choosing states to study, MALDEF took into consideration a variety of factors, such as:

- The total number of Latinos in a state;
- The percentage of Latinos in each state's total population;
- The total number and percentage of Latino population growth in a state between the 1990 and 2000 Decennial Census;
- The level of restriction of a state's felony disenfranchisement laws and its voting rights laws;¹⁹
- The total prison population; and
- A regional diversity of states.

After looking at those factors,²⁰ MALDEF decided to study the following ten states, which are depicted in the map that follows:

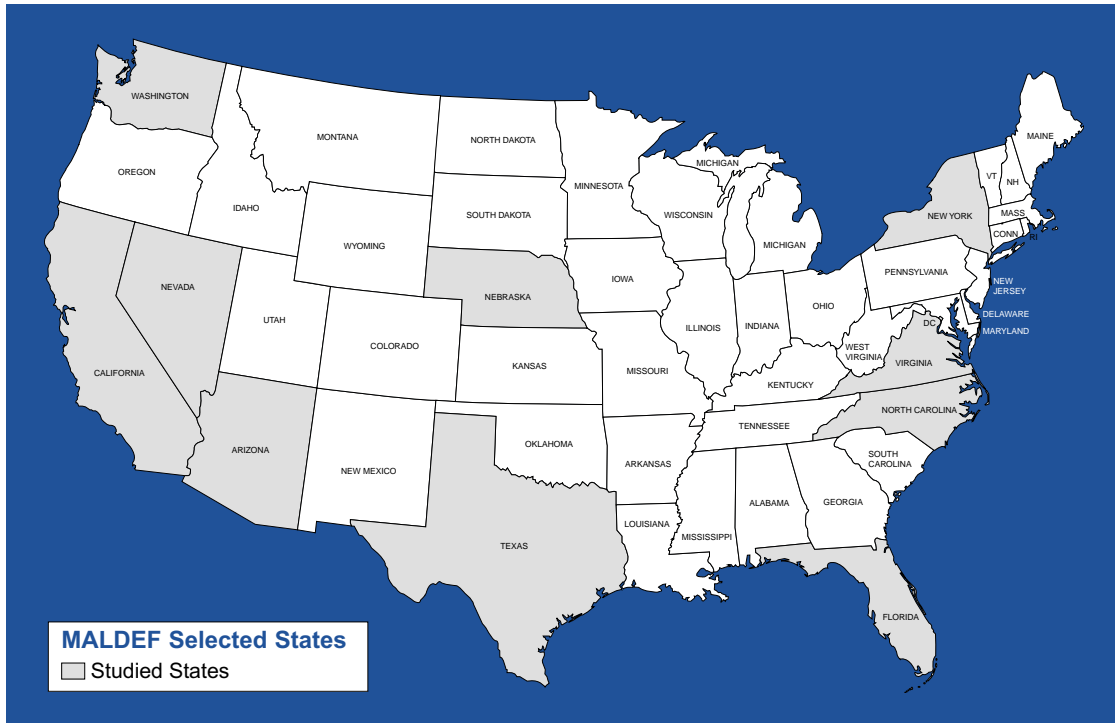
- **Arizona**
- **California**
- **Florida**
- **Nebraska**
- **Nevada**
- **New York**
- **North Carolina**
- **Texas**
- **Virginia**
- **Washington**



¹⁹For a detailed description of each state's felony disenfranchisement laws, see Appendix A.

²⁰For a detailed description of how various states in the country fell under each factor analysis, see Appendix B.

Ten States Selected for MALDEF Study



Some of the states jumped off the page when we began cross-referencing various factors. For example, California, Florida, New York and Texas all had such large numbers for Latino population and growth, as well as such large prison populations that we had to include these states where so many Latinos are affected by the criminal justice system and felony disenfranchisement laws. States such as Nebraska, Nevada and North Carolina had experienced such phenomenal growth in their Latino populations during the last decade that we included them in large part to analyze possible trends in new growth states as to where the felony disenfranchisement laws might affect Latinos more over time. Some of the states were added due to a combination of factors. For example, we included Virginia, Arizona, and Washington because they have some of the most restrictive voting laws and either large prison populations or large Latino growth. In the end, the ten states we chose represent a good cross-section for analysis on Latino data.

B. Data Estimates and Concerns

Working with Dr. Christopher Uggen,²¹ MALDEF gathered data for a process that would lead to the creation of estimates of Latinos convicted of felonies that were affected by the chosen states' felony disenfranchisement laws. After selecting the states to study, MALDEF determined which groups of convicted felons would be prevented from voting under each state's laws. For most states, this entailed gathering data on felons in prison, jail, probation, and parole from state department of corrections (DOC), the Bureau of Justice Statistics (BJS), and *The 2001 Corrections Yearbook* published by the Criminal Justice Institute. For these various groups of people, MALDEF attempted to gather information on race and ethnicity, gender, and citizenship. Information was then provided to Dr. Uggen to create the data estimates for each state.²²

²¹MALDEF secured the consulting services of Professor Christopher Uggen, a professor of Sociology at the University of Minnesota, who is known as an expert in the field of felony disenfranchisement. Professor Uggen served as an expert for the Brennan Center in the case of *Johnson v. Bush*, Case No. 00-3542-CV-JLK (S.D. Fla. 2002), the challenge to Florida's felony disenfranchisement law. He has also written and presented on related topics. In addition, MALDEF secured the assistance of Sara Wakefield, a graduate student working with Professor Uggen.

²²For the complete description of the methodology used to create disenfranchised population estimates, see Appendix C.

While the data estimates on the different state disenfranchised felon populations are as thorough as could possibly be made under the circumstances, there are some general concerns and drawbacks to some of the data presented:

The first general concern when attempting to create data estimates for different entities such as individual states is data uniformity. The primary data sources for the data are from the BJS and the individual state agencies that run the correctional departments or different components of the correctional system, primarily the state DOCs. The process by which the BJS gathers its information is primarily by requesting the data from the different states' DOCs. The possible problem with this process, especially when gathering information for state-to-state comparisons, is that not every DOC collects its information in the same manner, nor keeps the same information, and therefore the comparisons made might not be true comparisons. Virginia was an example of a state that did not collect information on the Latino community at all, so other data are used to supplement and create estimate information that serves as the basis of the state's estimated disenfranchisement population. Different states might also classify races and ethnicities by different standards, or group many people into an "other" category. This is of particular concern with Latinos who may be a relatively new population to some states that have not historically collected data on Hispanics.

An additional concern is conflicting sources of data. While MALDEF attempted to ensure data uniformity by utilizing BJS data as the primary source of information, each selected state's DOC was also contacted for information and used, at the very least, to corroborate the BJS data. In some instances the group population totals have a significant difference between the data reported directly by the state DOC and the data reported for the state by the BJS. Therefore, in states where information conflicts, some of the felony disenfranchisement population estimates will have a greater margin of error.

Also contributing to some states' margins of error were differences in data researched. For some states, some important felon group population totals have significant differences between the data reported directly by the state DOC and the data reported for the state by the BJS. The data researched on the Virginia prison population featured a substantial difference between the DOC and BJS reports. Texas research yielded troubling differences in the prison and jail populations. And Florida research yielded contradictory figures for its parole and probation totals.

Aside from some pieces of contradictory information, another concern in creating the disenfranchised population estimates was that not every piece of information that would be required to get the best estimates for disenfranchised persons was available, and thus some components had to be estimated. Specifically, probation and parole information was often incomplete when secured from a state's DOC. Or, when parole or probation data was provided, it was not disaggregated by race and ethnicity. Also, for states with laws that affect former felons out of the criminal justice system, information had to be projected forward from archived population records. Often, past data was not as reliable as newer information, if it was kept at all.

Finally, when studying the Latino population, it is important to recognize that many in the Latino community are immigrants. The initial data estimates created by Dr. Uggen were based in part on both Latino Voting Age Population (VAP), as well as Latino citizen population statistics. Neither of these numbers are perfect measures of the extent of the Latino population potentially subject to disenfranchisement because the VAP numbers will include immigrants who are not yet citizens, and the Latino citizen population numbers will include Latinos who are not yet adults. Following the preparation of the population estimates by our expert, the Census Bureau released new data in the form of Latino Citizen Voting Age Population (CVAP). MALDEF thereafter analyzed the data utilizing the CVAP data as the base. The findings of disproportionate effects on Latinos are even more stark using CVAP numbers.

III. STATE DATA SUMMARIES

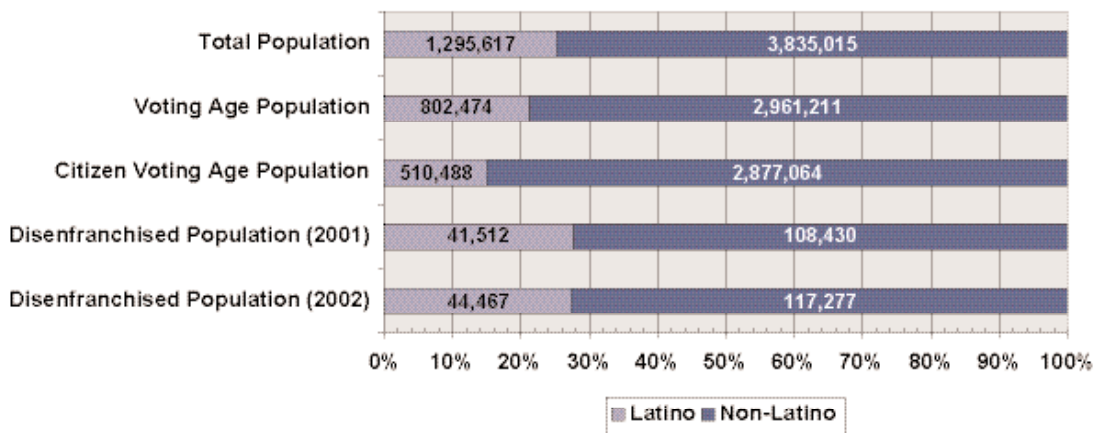
With the general methodology and data background now described, the state-by-state findings are set out below. The states are listed in alphabetical order.

A. Arizona

The Arizona data for disenfranchised felons reveals a projected 4.3% of the voting age population (persons 18 years and older) and 4.77% of the citizen voting age population (persons who are citizens and 18 years and older) in 2002 was disenfranchised in the state. Of that disenfranchised population, 44,467 were estimated to be Latino, or 5.50% of all Latinos of voting age, or 8.71% of voting age citizens.



Arizona: Latino Population, Disenfranchised Population, and Percentages



In other words, Latinos in Arizona were more likely to be disenfranchised than the general population. Another indicator that the Latino community is disproportionately affected by the restrictive Arizona felony disenfranchisement laws is that while Latinos made up 21.3% of the total voting age population and 15.07% of the total citizen voting age population, they made up 27.50% of the projected disenfranchised population.

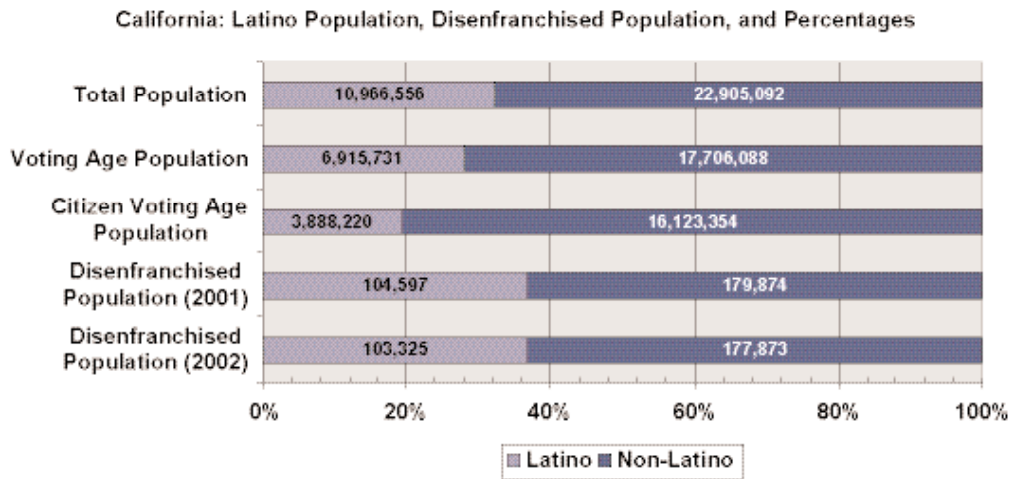
Arizona: Disenfranchised Felon Population Totals and Percentage of Voting Age Population (VAP) and Citizen Voting Age Population (CVAP)

	2001 Estimated Disenfranchised Felons	% of VAP	% of CVAP	2002 Projected Disenfranchised Felons	% of VAP	% of CVAP
Total	149,942	4.00%	4.43%	161,744	4.30%	4.77%
Latino	41,512	5.20%	8.13%	44,467	5.50%	8.71%
White*	88,529	3.10%	3.19%	96,987	3.39%	3.50%

*Non-Latino, Non-African-American Population

B. California

California features a large total number of disenfranchised felons, with a projected 2002 total of 281,198. Because of the overall size of California’s population, the disenfranchised equal 1.1% of the total voting age population and 1.41% of the citizen voting age population. Comparatively, a higher percentage of the Latino population is disenfranchised, with 1.50% of the voting age and 2.66% of the citizen voting age population not able to vote. Latinos are disproportionately represented among the disenfranchised population making up 36.5% of that population compared to making up only 28.1% of the voting age population and an even smaller 19.43% of the citizen voting age population.



California: Disenfranchised Felon Population Totals and Percentage of Voting Age Population (VAP) and Citizen Voting Age Population (CVAP)

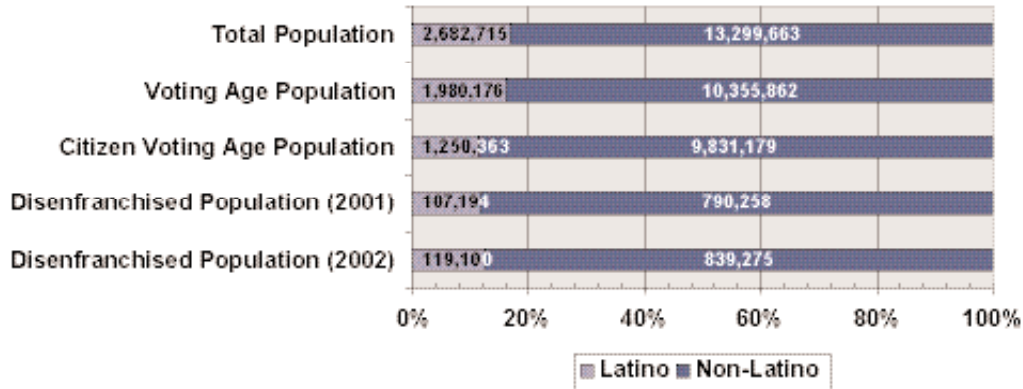
	2001 Estimated Disenfranchised Felons	% of VAP	% of CVAP	2002 Projected Disenfranchised Felons	% of VAP	% of CVAP
Total	284,471	1.1%	1.42%	281,198	1.1%	1.41%
Latino	104,567	1.5%	2.69%	103,325	1.5%	2.66%
White*	66,972	0.41%	0.46%	66,772	0.41%	0.46%

*Non-Latino, Non-African-American Population

C. Florida

Florida’s total disenfranchised population is 12.4% Latino. Compared to the Latino ratio of 16.10% of the total voting age population, Latinos seem to be *under-represented*. However, the 12.4% figure is larger than the 11.28% of the citizen voting age population, which could mean that Latinos are actually over-represented in the disenfranchised population. A similar “difference of opinion” occurs when studying the percentages of the voting age population that is not allowed to vote. The Latino voting age population is being disenfranchised at a rate of 6.0%, lower than the total population’s rate of 7.80%, but the Latino citizen voting age population is disenfranchised at a rate of 9.53%, higher than the total population’s rate of 8.65%. Regardless of the rates, it is significant that a projected 119,100 members of the Latino community cannot vote.

Florida: Latino Population, Disenfranchised Population, and Percentages



Florida: Disenfranchised Felon Population Totals and Percentage of Voting Age Population (VAP) and Citizen Voting Age Population (CVAP)

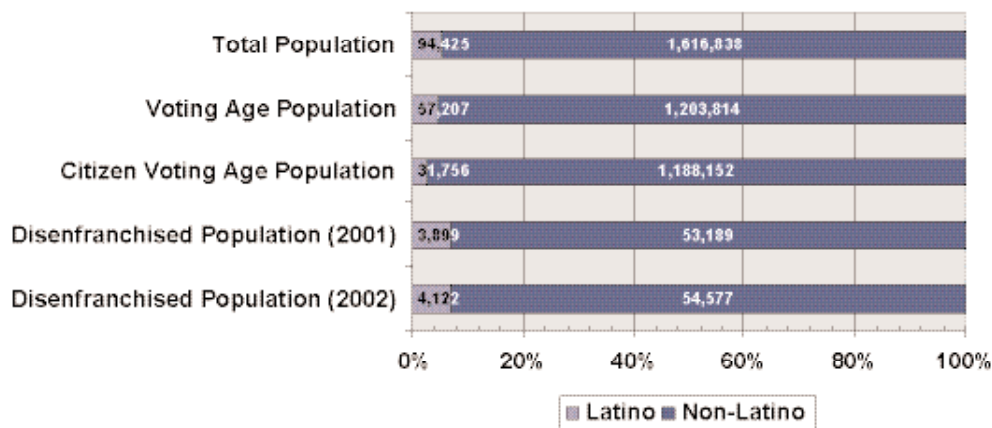
	2001 Estimated Disenfranchised Felons	% of VAP	% of CVAP	2002 Projected Disenfranchised Felons	% of VAP	% of CVAP
Total	897,452	7.3%	8.1%	958,375	7.8%	8.65%
Latino	107,194	5.2%	8.57%	119,100	6%	9.53%
White*	518,724	5.86%	6.13%	554,829	6.27%	6.55%

*Non-Latino, Non-African-American Population

D. Nebraska

Nebraska features one of the United States’ newer Latino communities. The Latino population nearly tripled in size over the last decade to 94,425 persons, of which, 57,207 are of voting age and 31,756 are citizens of voting age. While Latinos make up 4.5% of the total voting age population and 2.60% of the citizen voting age population, they are an estimated 7.0% of the disenfranchised felon population. Another measure indicating over-representation among the disenfranchised is that 7.20% of the Latino voting age population is disenfranchised, while 4.70% of the total voting age population is denied the right to vote. A larger disparity emerges among the citizen voting age population, whereas 4.81% of the total citizen voting age population is not able to vote, and nearly 13% of the Latino citizen voting age population is ineligible.

Nebraska: Latino Population, Disenfranchised Population, and Percentages



Nebraska: Disenfranchised Felon Population Totals and Percentage of Voting Age Population (VAP) and Citizen Voting Age Population (CVAP)

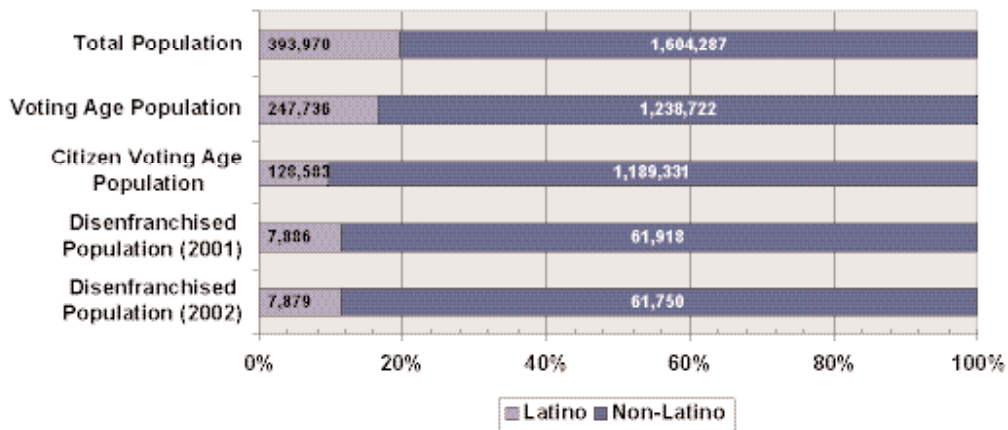
	2001 Estimated Disenfranchised Felons	% of VAP	% of CVAP	2002 Projected Disenfranchised Felons	% of VAP	% of CVAP
Total	57,088	4.5%	4.68%	58,699	4.7%	4.81%
Latino	3,899	6.8%	12.28%	4,122	7.2%	12.98%
White*	43,184	3.72%	3.77%	44,211	3.81%	3.86%

*Non-Latino, Non-African-American Population

E. Nevada

In Nevada, Latinos made up an estimated 11.3% of the disenfranchised population compared to 16.7% of the voting age population and 9.76% of the citizen voting age population. Using voting age population as the denominator, the state’s felony disenfranchisement laws appear *not* to have a negative disproportionate effect on the Latino community. But the policies do harm Latinos if you utilize citizen voting age population as the denominator. Similarly, 3.2% of the Latino voting age population is disenfranchised, while 4.7% of the total voting age population is estimated to be barred from voting, signaling an apparent under-representation of Latinos, while 6.13% of the Latino citizen voting age population is disenfranchised compared to a disenfranchised rate of 5.28% of the total citizen voting age population, which signals an over-representation in the disenfranchised population.

Nevada: Latino Population, Disenfranchised Population, and Percentages



Nevada: Disenfranchised Felon Population Totals and Percentage of Voting Age Population (VAP) and Citizen Voting Age Population (CVAP)

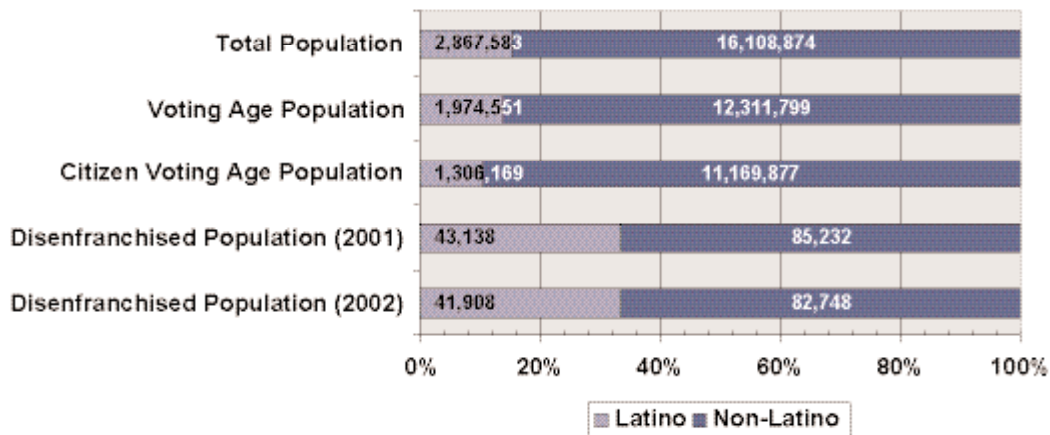
	2001 Estimated Disenfranchised Felons	% of VAP	% of CVAP	2002 Projected Disenfranchised Felons	% of VAP	% of CVAP
Total	69,804	4.7%	5.3%	69,629	4.7%	5.28%
Latino	7,866	3.2%	6.12%	7,879	3.2%	6.13%
White*	43,084	3.75%	3.91%	42,215	3.68%	3.83%

*Non-Latino, Non-African-American Population

F. New York

The sheer total population of New York means that its felony disenfranchisement law produces one of the highest disenfranchised populations in the country. An estimated 124,000 persons were disenfranchised in New York. Of that disenfranchised population, Latinos made up 33%. Comparatively, Latinos only make up 13.8% of the voting age population and 10.47% of the citizen voting age population, so it would seem the state's laws impact Latinos in a disproportionately negative fashion. An estimated 2.10% of the Latino voting age population is disenfranchised, which is higher than the estimated 0.90% of the total voting age population that is not allowed to vote due to felony disenfranchisement laws. Also, 3.21% of the Latino citizen voting age population cannot vote, as opposed to 1.00% of the total citizen voting age population.

New York: Latino Population, Disenfranchised Population, and Percentages



New York: Disenfranchised Felon Population Totals and Percentage of Voting Age Population (VAP) and Citizen Voting Age Population (CVAP)

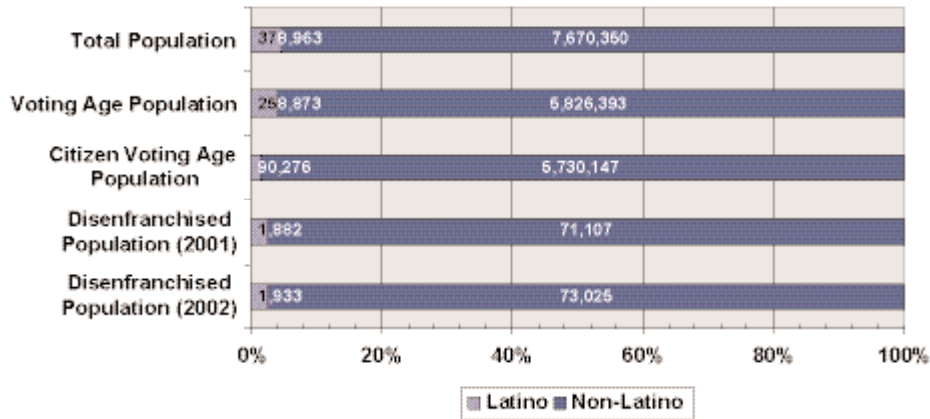
	2001 Estimated Disenfranchised Felons	% of VAP	% of CVAP	2002 Projected Disenfranchised Felons	% of VAP	% of CVAP
Total	128,370	0.90%	1.03%	124,656	0.90%	1.00%
Latino	43,138	2.20%	3.30%	41,908	2.10%	3.21%
White*	2,601	0.03%	0.00%	2,402	0.02%	0.00%

*Non-Latino, Non-African-American Population

G. North Carolina

Even more so than Nevada, North Carolina was a high growth state for the Latino population (the Latino population grew 450% over the last decade). Almost every Latino in North Carolina, as of 2000, came to the state in the last decade. However, growth aside, Latinos still make up a very low percentage of the population and disenfranchised population. Latinos make up 4.3% of the voting age population and an even smaller 1.55% of the citizen voting age population, but an estimated 2.6% of the disenfranchised population. These statistics highlight an apparent under-representation among the disenfranchised population using voting age population as the percentage denominator and an over-representation as a percentage of citizen voting age population. Similarly, 1.20% of the voting age population is estimated to be disenfranchised, while 0.80% of the Latino voting age population is denied the right to vote. Of citizen voting age population, 1.29% of the all persons are disenfranchised while 2.14% of Latinos can not vote.

North Carolina: Latino Population, Disenfranchised Population, and Percentages



North Carolina: Disenfranchised Felon Population Totals and Percentage of Voting Age Population (VAP) and Citizen Voting Age Population (CVAP)

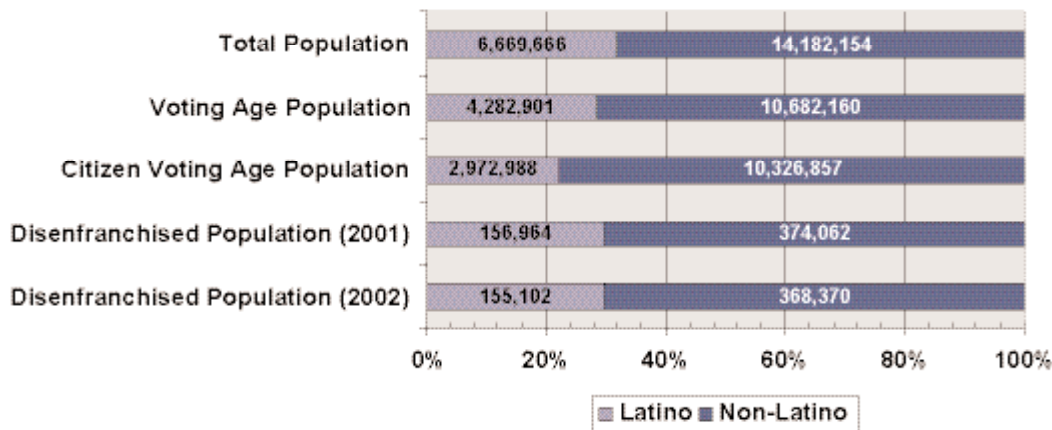
	2001 Estimated Disenfranchised Felons	% of VAP	% of CVAP	2002 Projected Disenfranchised Felons	% of VAP	% of CVAP
Total	72,989	1.20%	1.25%	74,958	1.20%	1.29%
Latino	1,882	0.70%	2.08%	1,933	0.80%	2.14%
White*	28,905	0.63%	0.64%	29,772	0.64%	0.66%

*Non-Latino, Non-African-American Population

H. Texas

Texas is an example where a state’s Latino felony disenfranchised population is approximately the same ratio as the Latino voting age population. The Latino population makes up 29.6% of the disenfranchised felon population compared to the 28.6% of the voting age population. Similarly, 3.50% of Texas’ total voting age population is estimated to be disenfranchised, while a comparable 3.60% of the Latino voting age population is barred from voting. However, these statistics paint a different picture when taking citizen voting age population data into account. Latinos make up only 22.35% of the citizen voting age population (compared to 29.6% of the disenfranchised population). And, 5.21% of Latino citizen voting age persons are denied the right to vote as compared to 3.94% of all citizens of voting age.

Texas: Latino Population, Disenfranchised Population, and Percentages



Texas: Disenfranchised Felon Population Totals and Percentage of Voting Age Population (VAP) and Citizen Voting Age Population (CVAP)

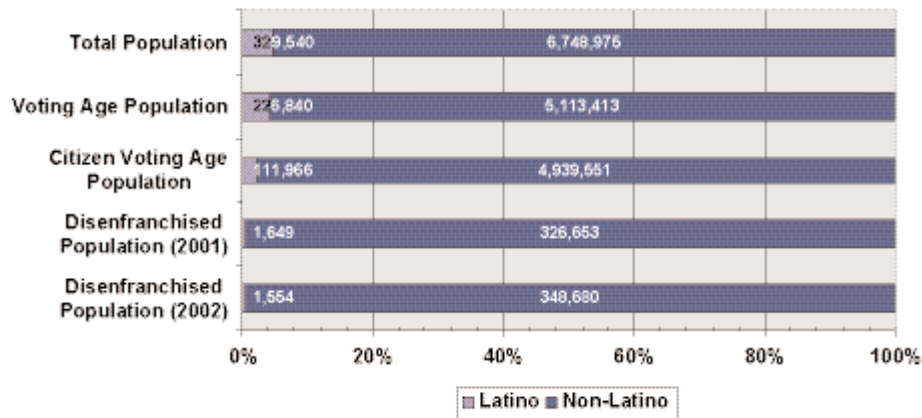
	2001 Estimated Disenfranchised Felons	% of VAP	% of CVAP	2002 Projected Disenfranchised Felons	% of VAP	% of CVAP
Total	531,026	3.60%	3.99%	523,472	3.50%	3.94%
Latino	156,964	3.70%	5.28%	155,102	3.60%	5.21%
White*	207,155	2.29%	2.38%	204,936	2.26%	2.35%

*Non-Latino, Non-African-American Population

I. Virginia

Virginia’s Department of Corrections does not collect any data on Latino or Hispanic persons within its correctional institutions, which makes the information presented, while the best possible, still very unreliable. In Virginia, Latinos comprise 4.20% of the total voting age population and 2.22% of the citizen voting age population, but only 0.50% of the disenfranchised population. Also, a high 6.6% of the voting age population is disenfranchised in Virginia, while 0.70% of the Latino voting age population is not allowed to vote and 6.93% of the citizen voting age population is disenfranchised compared to 1.39% of the Latino citizen voting age population. While these figures seem to show that Virginia’s felony disenfranchisement laws hardly affect Latinos, the data regarding Latinos is highly suspect because the data had to be largely estimated due to the lack of correctional statistics on Latinos.

Virginia: Latino Population, Disenfranchised Population, and Percentages



Virginia: Disenfranchised Felon Population Totals and Percentage of Voting Age Population (VAP) and Citizen Voting Age Population (CVAP)

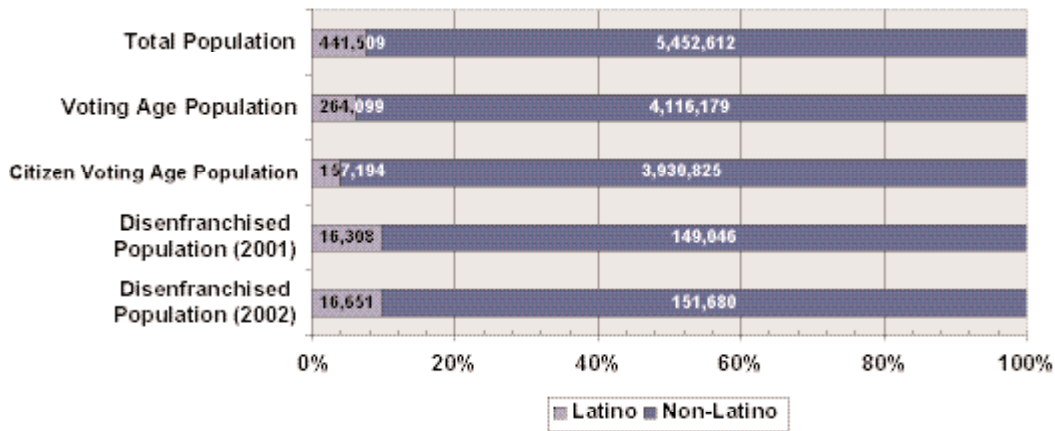
	2001 Estimated Disenfranchised Felons	% of VAP	% of CVAP	2002 Projected Disenfranchised Felons	% of VAP	% of CVAP
Total	328,302	6.20%	6.50%	350,234	6.60%	6.93%
Latino	1,649	0.70%	1.47%	1,554	0.70%	1.39%
White*	153,356	3.71%	3.85%	162,491	3.93%	4.08%

*Non-Latino, Non-African-American Population

J. Washington

Washington State Latinos made up 9.89% of the disenfranchised population, but only 6% of the voting age population and 3.85% of the citizen voting age population. This difference implies that Washington’s felony disenfranchisement laws might be affecting the Latino community in a disproportionate manner. This conclusion is further bolstered by the finding that 3.8% of the total voting age population is disenfranchised, while over 6% of the Latino voting age population is estimated not to be able to vote. Even more staggering is that 10.59% of the Latino citizen voting age population is unable to vote, compared to 4.12% of the total citizen voting age population.

Washington: Latino Population, Disenfranchised Population, and Percentages



Washington: Disenfranchised Felon Population Totals and Percentage of Voting Age Population (VAP) and Citizen Voting Age Population (CVAP)

	2001 Estimated Disenfranchised Felons	% of VAP	% of CVAP	2002 Projected Disenfranchised Felons	% of VAP	% of CVAP
Total	165,354	3.80%	4.04%	168,331	3.80%	4.12%
Latino	16,308	6.20%	10.37%	16,651	6.30%	10.59%
White*	126,098	3.16%	3.31%	128,290	3.22%	3.37%

*Non-Latino, Non-African-American Population

IV. CONCLUSIONS

General patterns emerged when the individual studied states were analyzed earlier in this report. What this section aims to do is compile a direct comparison of all ten of the studied states and analyze the patterns of the disenfranchised population, and the Latino disenfranchised population in particular. The disenfranchisement estimates created, while the best that have been produced to study to date, are still suspect because of different variables that could contribute to the size of the margin of error in a state's estimates. When looking at the different tables in this section, there are a few data notes that must be kept in mind:



- All disenfranchised population data figures are referencing the 2002 projected figures described in the earlier state sections. The 2002 projections were based on the 2001 estimated disenfranchised population.
- When studying the Latino population, it is important to recognize that many in the Latino community are immigrants. Most of the figures presented in the following conclusions use Citizen Voting Age Population (CVAP) as the denominator for percentages, however the initial data estimates did not have the benefit of available CVAP data. While the estimates took into account what information was available to attempt to compensate for Latino citizenship rates, most data were not perfect measures. Therefore, the percentages presented, while being the best demonstration of Latino disenfranchisement rates to date, still could use refinement.
- Virginia's Department of Corrections did not keep any data on Latino or Hispanics, so it had heavily estimated Latino disenfranchised population data. Because of that, its Latino disenfranchised population data are highly suspect and most likely are not representative. Virginia is marked with an asterisk (*) throughout the following section for this reason.
- The fact that Latinos are, more than likely, not uniformly tracked by different state Department of Corrections, and not as reliably tracked as African-Americans contributes to the estimates' margins of error and also affects the ability to make direct state comparisons. The Latino community itself often identifies in different race or ethnicity categories depending on how the question is phrased. The Census Bureau separates Latinos as an ethnicity as opposed to a race. In the separate race question, 90% of Latinos identified themselves as White or Other Race.²³ Different state Departments of Corrections might phrase the question in a different manner.

²³2000 Census Standard File 1, P8: Of the United States Latino population, 47.89% of Latinos chose "White" as their race and 42.18% selected "Some Other Race".

A. General Conclusions

This report is the first attempt ever to present Latino felony disenfranchisement data. When analyzing the data across the ten states that were studied, several general conclusions emerge.

Conclusion #1: Significant numbers of Latinos are prohibited from voting by felony disenfranchisement laws. In California and Florida, over 100,000 Latinos are disenfranchised. In Texas, over 150,000 Latinos cannot vote due to these laws. In six out of the ten states studied, Latinos constitute more than ten percent of the total number of persons disenfranchised by felony disenfranchisement laws in the state.

Number of Latinos Disenfranchised Compared to Total Number of Disenfranchised

State	Total 2002 Disf	Latino 2002 Disf
Arizona	161,744	44,467
California	281,198	103,325
Florida	958,375	119,100
Nebraska	58,699	4,122
Nevada	69,629	7,879
New York	124,656	41,908
North Carolina	74,958	1,933
Texas	523,472	155,102
Virginia*	350,234	1,554
Washington	168,331	16,651

Conclusion #2: Generally, Latinos have disproportionately higher rates of disenfranchisement compared to their presence in the voting age population.²⁴ In six out of the ten states studied, Latinos are prohibited from voting by felony disenfranchisement laws at rates higher than their representation among the voting age population. In some of the remaining four states, the extent of Latino disenfranchisement may be higher than

Latino Disenfranchisement Rate Compared to Latino Voting Age Population (VAP)

State	Latino VAP	Latino 2002 Disf.	2002 Disf. Greater than VAP?
Arizona	21.32%	27.49%	Y
California	28.09%	36.74%	Y
Florida	16.05%	12.43%	N
Nebraska	4.54%	7.02%	Y
Nevada	16.67%	11.32%	N
New York	13.82%	33.62%	Y
North Carolina	4.25%	2.58%	N
Texas	28.62%	29.63%	Y
Virginia*	4.25%	0.44%	N
Washington	6.03%	9.89%	Y

indicated by the figures presented in this report. In Florida and Virginia, data on Latinos in the corrections system is either unavailable or very limited. In Nevada, a state with both high recent Latino growth and disenfranchisement of ex-felons, the proportion of Latinos in the population is now considerably higher than some years ago. Therefore, as more current felons enter the state databases, the Latino disenfranchised group is likely to increase as well.

²⁴Voting Age Population figures taken from the 2000 Census PL94-171.

Conclusion #3: Generally, Latinos are more likely to be disenfranchised than the general population due to felony disenfranchisement laws. In six out of the ten states studied, Latinos are more likely to be disenfranchised than the total population. The remaining four states are the same mentioned previously (Florida, Virginia, North Carolina, and Nevada). The quality of the states' information could explain why these states do not follow the same general pattern as the other states.

Group Rate of 2002 Disenfranchised Persons as Percentage of Voting Age Population

State	Total	Latino	Latino Greater than Total?
Arizona	4.30%	5.54%	Y
California	1.14%	1.49%	Y
Florida	7.77%	6.01%	N
Nebraska	4.65%	7.21%	Y
Nevada	4.68%	3.18%	N
New York	0.87%	2.12%	Y
North Carolina	1.23%	0.75%	N
Texas	3.50%	3.62%	Y
Virginia*	6.56%	0.68%	N
Washington	3.84%	6.30%	Y

Conclusion #4: When the disenfranchisement rates are compared to only citizens of voting age (removing the non-citizens), the impact of the felony disenfranchisement laws on Latinos who are citizens is greater. While the information gathered shows the disproportionate effects on the Latino community from felony disenfranchisement laws, an important fact to keep in mind is that only those who are eligible to vote can have their right to vote affected; that is, only citizens of voting age. When the disenfranchisement rates are calculated using citizen voting age populations, the results are changed dramatically. Below are charts comparing each studied state's disenfranchised population percentages using citizen voting age population (CVAP)²⁵:

Latino Population as a Percentage of Total Population, Citizen Voting Age Population, and the Disenfranchised

	Total	CVAP	2002 Disf	2002 Disf Greater Than CVAP?
Arizona	25.25%	15.07%	27.49%	Y
California	32.38%	19.43%	36.74%	Y
Florida	16.77%	11.28%	12.43%	Y
Nebraska	5.49%	2.60%	7.02%	Y
Nevada	19.69%	9.76%	11.32%	Y
New York	15.10%	10.47%	33.62%	Y
North Carolina	4.63%	1.55%	2.58%	Y
Texas	31.99%	22.35%	29.63%	Y
Virginia*	4.62%	2.22%	0.44%	N
Washington	7.46%	3.85%	9.89%	Y

²⁵Citizen Voting Age Population Data Source: 2000 Census, SF4 Table GCT-P16.

Nine out of ten states disenfranchise the Latino community at rates greater than the total population. Comparing the make up of the states' disenfranchised populations to the citizen voting age populations, Latinos have higher disenfranchised populations in every state except Virginia.

**Total Population and Latino Population Rates of 2002
Disenfranchised Population out of Citizen Voting Age Population**

State	Total	Latino	Latino Greater than Total?
Arizona	4.77%	8.71%	Y
California	1.41%	2.66%	Y
Florida	8.65%	9.53%	Y
Nebraska	4.81%	12.98%	Y
Nevada	5.28%	6.13%	Y
New York	1.00%	3.21%	Y
North Carolina	1.29%	2.14%	Y
Texas	3.94%	5.22%	Y
Virginia*	6.93%	1.39%	N
Washington	4.12%	10.59%	Y

Similarly, when comparing rates of disenfranchised citizen voting age population, only Virginia disenfranchises Latino citizens less than the total citizen rates. However, as noted earlier in this study, Virginia has unreliable disenfranchisement data for Latinos because the state's Department of Corrections did not collect any information for Latinos. Therefore, it is very possible that Virginia could be disenfranchising Latinos more than shown here.

The next sections of this study will look at the rates of disenfranchisement for the Latino community in comparison to certain state characteristics or particular groups.

B. Restrictive States Compared to Less-Restrictive States

A hypothesis going into this study was that the more restrictive the disenfranchisement voting law in a state, the more it would disenfranchise the Latino population. As was mentioned in the introduction, the least restrictive disenfranchisement voting laws are those that allow convicted felons to never lose their fundamental right to vote, even when serving a prison sentence. The most restrictive laws deny U.S. citizens their right to vote once convicted of a felony for the rest of their lives, even if they are out of prison and off parole or probation. Many states fall in between these two ends of the spectrum. If minorities are disproportionately affected by the criminal justice system and laws restrict the civic participation of persons who have been convicted of felonies, then the more restrictive the law, the more minorities would be affected.

According to research, six out of the ten chosen states had what was classified as more restrictive felony disenfranchisement laws than most other states. Those were Arizona, Florida, Nebraska, Nevada, Washington, and Virginia. The table below lists each state in order of the greatest disenfranchisement of the total citizen voting age population, and indicates whether or not the state has a very restrictive felony disenfranchisement law, along with the disenfranchisement differences highlighted earlier for the Latino community.

Group Rate of 2002 Disenfranchised Population out of Citizen Voting Age Population, Difference Between Rates, and Level of Restrictive Law

	Total	Latino	Difference	Very Restrictive?
Florida	8.65%	9.53%	0.88%	Y
Virginia*	6.93%	1.39%	-5.55%	Y
Nevada	5.28%	6.13%	0.84%	Y
Nebraska	4.81%	12.98%	8.17%	Y
Arizona	4.77%	8.71%	3.94%	Y
Washington	4.12%	10.59%	6.47%	Y
Texas	3.94%	5.22%	1.28%	
California	1.41%	2.66%	1.25%	
North Carolina	1.29%	2.14%	0.85%	
New York	1.00%	3.21%	2.21%	

Conclusion #5: The more restrictive felony disenfranchisement laws have a direct correlation to the size of the disenfranchised population. The top six states on the list with higher rates of disenfranchisement are the six states listed as having the more restrictive felony disenfranchisement laws. Further, the states on the list that are the most restrictive, Florida and Virginia, are the two states with the largest percentages of legally disenfranchised population.

The six most restrictive states also have shown a greater disproportionate effect on the Latino community. Discounting Virginia for its unreliable Latino data, the five most restrictive states feature the top five highest percentages of disenfranchised Latino citizen voting age population. The highly restrictive states of Nebraska, Washington, and Arizona also feature the largest disproportions between the total and Latino populations, in terms of disenfranchisement.

C. Large States Compared to Small States

Conclusion #6: Even when a large state does not permanently disenfranchise persons convicted of felonies, laws that deny citizens the opportunity to vote in a large state have the effect of disenfranchising large numbers of Latinos.

This table shows each studied state ranked in order of total citizen voting age population from largest to smallest. For purposes of comparison, the top four most populous states – California, Texas, New York, and Florida – will be referred to as the Large States, and the remaining six are referred to as the Small States.

	TOTAL POPULATION		LATINO POPULATION	
	CVAP	2002 Disf	CVAP	2002 Disf
California	20,011,574	281,198	3,888,220	103,325
Texas	13,299,845	523,472	2,972,988	155,102
New York	12,476,046	124,656	1,306,169	41,908
Florida	11,081,542	958,375	1,250,363	119,100
North Carolina	5,820,423	74,958	90,276	1,933
Virginia*	5,051,517	350,234	111,966	1,554
Washington	4,088,019	168,331	157,194	16,651
Arizona	3,387,552	161,744	510,488	44,467
Nevada	1,317,914	69,629	128,583	7,879
Nebraska	1,219,908	58,699	31,756	4,122

Large States have numerically more disenfranchised populations than the Small States. The Large States have four out of the five highest disenfranchised Latino populations. Even if a Large State has a less restrictive felony disenfranchisement law, that law affects a greater number of people than a more restrictive law that affects a small population.

D. Latino Community Compared to the White Population

The data were generally available to study in the categories of African-American, Latino and “Other Disenfranchised Population.” The “Other” category includes whites, Asian Americans, and other populations that are neither African-American nor Latino. As can be seen in the chart below, the overwhelming majority (89%-97% in all but one state) of the “Other” category consists of non-Hispanic whites.

Latino Voting Age Population (VAP) Rate Compared to “Other” VAP, and Non-Latino White and Asian Percentages of “Other” VAP

State	Latino VAP %	Other VAP %	White % of Other	Asian % of Other
Arizona	21.30%	75.93%	90.82%	2.56%
California	28.10%	65.71%	77.85%	17.71%
Florida	16.10%	71.70%	95.42%	2.33%
Nebraska	4.50%	91.99%	97.10%	1.42%
Nevada	16.70%	77.23%	89.45%	6.61%
New York	13.80%	72.33%	89.01%	7.80%
North Carolina	4.30%	75.87%	95.70%	1.82%
Texas	28.60%	60.48%	93.10%	4.67%
Virginia*	4.70%	91.04%	93.12%	4.86%
Washington	6.00%	77.49%	89.53%	6.50%

Looking at the figures in the table below, the non-Latino, non-African-American disenfranchised population seems to be under-represented in all ten studied states. In fact, the figures presented show that no state’s “Other Disenfranchised Population” is under-represented by a ratio of less than 17%. And all other disenfranchised populations have lower ratios than the Latino disenfranchised population.

Comparison of Citizen Voting Age Population Percentage and 2002 Projected Disenfranchised Population Percentage for Latino and “Other” Populations

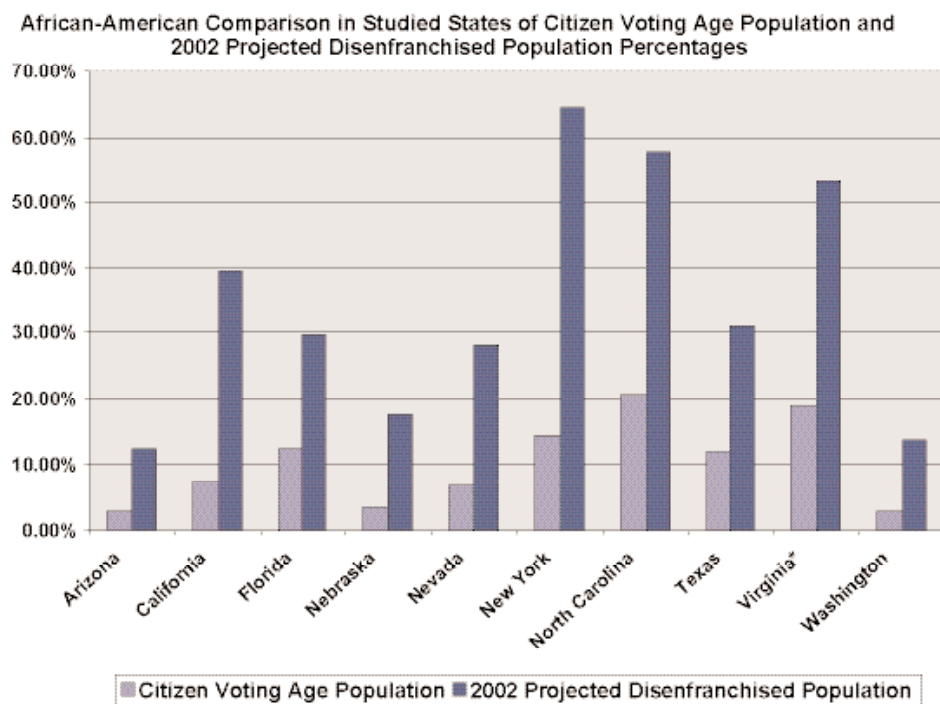
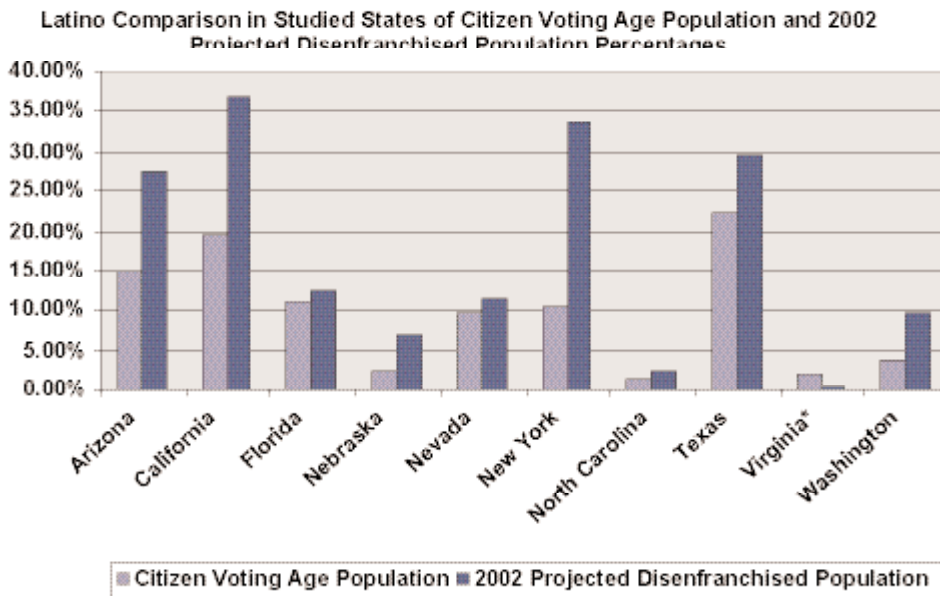
State	Latino CVAP %	Other CVAP %	Latino 2002 Disf %	Other 2002 Disf %	Latino Difference	Other Difference
Arizona	15.07%	81.92%	27.49%	59.96%	12.42%	-21.96%
California	19.43%	73.10%	36.74%	23.75%	17.31%	-49.35%
Florida	11.28%	76.40%	12.43%	57.89%	1.14%	-18.50%
Nebraska	2.60%	93.92%	7.02%	75.32%	4.42%	-18.60%
Nevada	9.76%	83.53%	11.32%	60.63%	1.56%	-22.90%
New York	10.47%	75.18%	33.62%	1.93%	23.15%	-73.25%
North Carolina	1.55%	77.84%	2.58%	39.72%	1.03%	-38.12%
Texas	22.35%	65.57%	29.63%	39.15%	7.28%	-26.42%
Virginia*	2.22%	78.87%	0.44%	46.39%	-1.77%	-32.47%
Washington	3.85%	93.22%	9.89%	76.21%	6.05%	-17.01%

Conclusion # 7: The data imply that non-Latino whites are very likely to be under-represented among those persons affected by felony disenfranchisement laws, and thus not as affected as African-Americans or Latinos. Of course, this conclusion is all by data implication and there still remain many concerns with the disenfranchisement population data identified throughout this report.

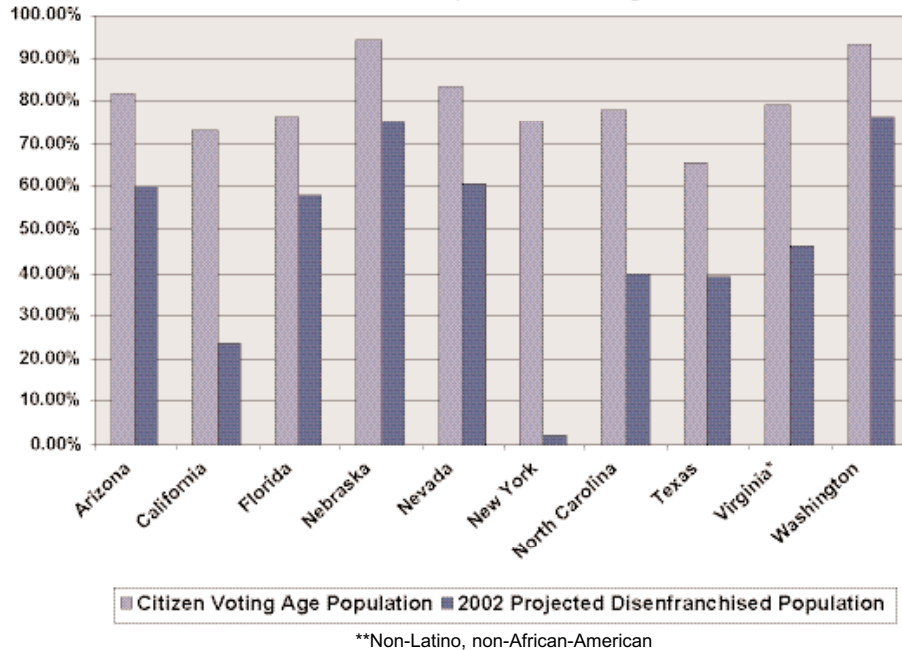
E. Latino Population Compared to African-American Population

Conclusion #8: Latinos and African-Americans are both negatively affected at disproportionate rates by felony disenfranchisement laws.

Conclusion #9: The rates of disenfranchisement for African-Americans are generally worse than those for the Latino community.



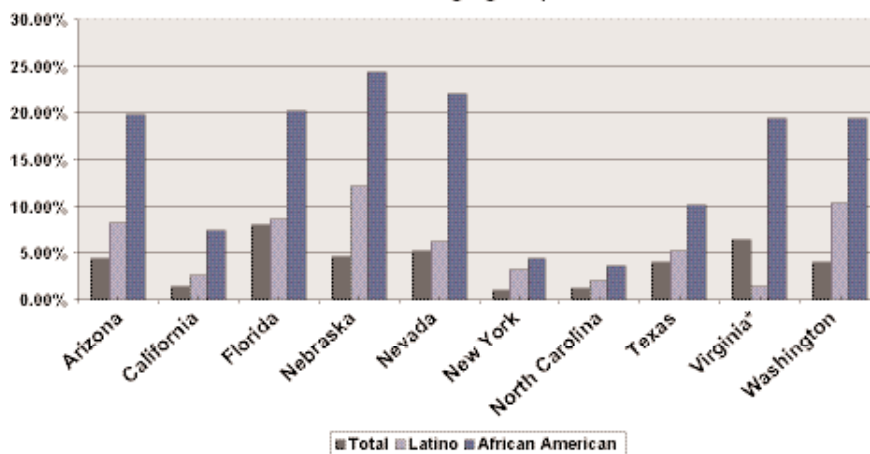
White** Comparison in Studied States of Citizen Voting Age Population and 2002 Projected Disenfranchised Population Percentages



The graphs above compare the ratios of citizen voting age population and the projected disenfranchised felon population. They show that Latinos were disproportionately affected in nine out of ten states (the tenth state, Virginia, had unreliable Latino data), while African-Americans were negatively affected in all ten states. The graphs also show that African-Americans were affected by felony disenfranchisement laws at greater rates than Latinos. The differences between the communities' citizen voting age populations and disenfranchised populations tended to be much higher for the African-American population. By this measure, only Arizona affected Latinos worse than African-Americans.

Comparing the percentages of the disenfranchised populations out of the citizen voting age populations in the chart below, the African-American population is still shown to be affected more than the Latino population. Looking at the percentage of citizen voting age population that was disenfranchised, both African-Americans and Latinos had their populations disenfranchised at greater percentages than the total population, but differences between the African-American population and total population was greater than the differences between the Latino population and total population for all ten states.

Group Percentage of Projected 2002 Disenfranchised Felon Population out of Citizen Voting Age Population



F. Conclusion on the Quality of the Data

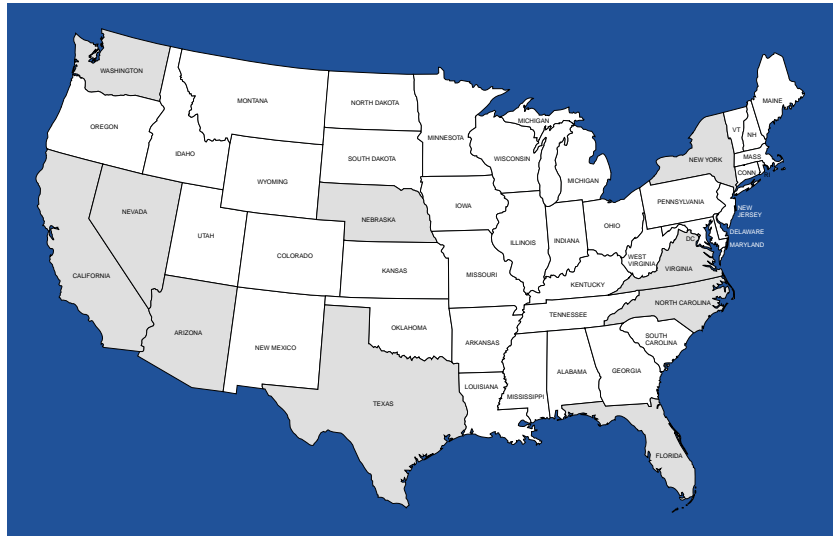
Conclusion # 10: More information is needed to better determine how these laws affect the Latino community. The data estimates for the Latino disenfranchised population are one of the first attempts to study the felony disenfranchisement laws' effect on this community. However, what is now evident is that there are many pieces of information that are not available in many states to create reliable estimates. Many of the estimates presented in this report are based on pieces of information that are also estimated or projected, and that process tends to lead to less-than-high-quality data. Many states with emerging Latino populations do not have or only recently began to keep track of Latinos in the corrections system. Also, there is a clear lack of uniformity in demographic data gathering among the state corrections system.

As MALDEF moves to a new study of all 50 states, and as it looks in greater detail at the methods by which state departments of corrections gather their information, MALDEF will create proposals that will allow states to gather reliable information so the effects of different disenfranchisement laws on the Latino community can be more accurately measured.

APPENDICES

Appendix A: Detailed Description of Ten States' Felony Disenfranchisement Laws and What Groups are Affected by the Laws

The following memorandum describes the state laws disenfranchising persons convicted of felonies in the ten states studied in this report. The legal research was done in conjunction with the data research. It is possible that the law could have changed since the research was conducted; however, since the law is concurrent with the data, it was not necessary to update the legal analysis for purposes of this report.



Arizona

What is Arizona's felony disenfranchisement law?:

The Arizona Constitution provides that “No person who is adjudicated an incapacitated person shall be qualified to vote at any election, nor shall any person convicted of treason or felony, be qualified to vote at any election unless restored to civil rights.”²⁶ The Arizona state voting statute mirrors the constitutional prohibition: “Every resident of the state is qualified to register to vote if he... has not been convicted of treason or a felony, unless restored to civil rights.”²⁷ The criminal statute further reflects that voting is among the civil rights a person loses when convicted of a felony.²⁸ Under the Constitution, the Governor can grant clemency. The Constitution specifically provides:

The governor shall have power to grant reprieves, commutation, and pardons, after convictions, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as may be provided by law.²⁹

Through statute, the Arizona state legislature has defined when voting rights can be restored after being convicted of a felony. First time offenders can have their rights automatically restored after complete discharge from incarceration or completion of any probation, and payment of any fine or restitution.³⁰ The person with two or more felonies can apply for the right to be restored right away if the defendant was only sentenced to probation once the probation is finished; either the discharging judge at the end of probation or the judge who sentenced the defendant may restore the right.³¹ Persons with at least two felonies who were incarcerated must wait two years after release from incarceration or completion of parole before they can apply to restore their voting rights, and they must return to the sentencing judge or the successor in office.³²

What groups of people are affected by Arizona's felony disenfranchisement law?: Persons convicted of felonies that are in prison or jail, along with felons who are on probation and parole do not have the right to vote. Further, former felons who have more than one offense have to apply for a restoration of voting rights (not automatically restored). Therefore, multiple offense felons who have not successfully applied to restore their voting rights also do not have the right to vote.

²⁶Ariz. Const. Art. 7, § 2(C).

²⁷Ariz. Rev. Stat. § 16-101(5).

²⁸*Id.* at § 13-904(1).

²⁹Ariz. Const. Art. 5, § 5.

³⁰Ariz. Rev. Stat. § 13-912 (A).

³¹*Id.* at § 13-905(A-B).

³²*Id.* at § 13-906(A-B).

California

What is California's felony disenfranchisement law?: The California Constitution specifically provides that: "The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while... imprisoned or on parole for the conviction of a felony."³³ California's election code implements the constitutional provision by stating that, "A person entitled to register to vote shall be... not in prison or on parole for the conviction of a felony..."³⁴

What groups of people are affected by California's felony disenfranchisement law?: Felons who are serving sentences for convictions of a felony in prison or jail, along with felons who are on parole do not have the right to vote in California. Unlike many states, California law does permit persons convicted of felonies and serving probation to vote.

Florida

What is Florida's felony disenfranchisement law?: The Florida Constitution provides that, "No person convicted of a felony... shall be qualified to vote or hold office until restoration of civil rights or removal of disability."³⁵ The only way to restore the right to vote after being convicted of a felony is to obtain a pardon or a restoration of civil rights from the Governor of Florida, with the approval of three members of the State Cabinet.³⁶ In order to even be considered for restoration of voting rights, a convicted felon in Florida must receive a full pardon from the board of pardons, serve the maximum term of sentence, or be granted full release from the Parole Commission.³⁷

What groups of people are affected by Florida's felony disenfranchisement law?: Any person who has committed at least one felony is prohibited from voting indefinitely. This includes felons in prison, jail, on probation, on parole, and those who have completed their debt to society and are no longer in the corrections system on any level. Only an action from Florida's Governor can restore a felon's, or ex-felon's, right to vote.

Nebraska

What is Nebraska's felony disenfranchisement law?: The Nebraska Constitution prohibits persons convicted of felonies from voting by providing: "No person shall be qualified to vote... who has been convicted of treason or felony under the laws of the state or of the United States, unless restored to civil rights."³⁸ The Nebraska election law takes the constitutional language and places it into the statute defining who is qualified to vote as an elector.³⁹ The criminal procedure statutes of Nebraska accomplish the same goal by stating that a convicted felon cannot vote unless he/she receives a warrant of discharge from the Board of Pardons.⁴⁰

In the case of a convicted felon who was not incarcerated, as soon as the sentencing court notifies the Board of Pardons showing that the sentence is completed, the Board "shall" restore "such civil rights as enumerated or limited" by the Board.⁴¹ In the case of a convicted felon who was incarcerated, the Board of Pardons must issue a warrant of discharge before civil rights are restored but there is no guarantee that any rights will be restored even if the sentencing court shows the sentence is completed.⁴²

What groups of people are affected by Nebraska's felony disenfranchisement law?: Felons who are in prison or jail, along with felons who are on probation and parole do not have the right to vote. Former felons who were never incarcerated automatically regain their right to vote. Former felons who were incarcerated, by contrast, have to apply for a restoration of voting rights (not automatically restored). Therefore, those felons who were incarcerated and who have not applied for their voting rights to the Nebraska Board of Pardons and been approved would also not have the right to vote.

³³Cal. Const. Art. 2, § 4.

³⁴Cal. Stat. § 2101.

³⁵Fla. Const. Art. VI, § 4(a).

³⁶Fla. Stat. Ch. 940.01.

³⁷*Id.* at Ch. 940.05.

³⁸Neb. Const. Art. VI, § 2.

³⁹Neb. Rev. Stat. § 32-313(1).

⁴⁰*Id.* at § 29-112.

⁴¹*Id.* at § 29-112.01.

⁴²*Id.* at §§ 29-112, 29-112.01.

Nevada

What is Nevada's felony disenfranchisement law?: The Nevada Constitution prohibits felons from voting by providing: “[N]o person who has been or may be convicted of treason or felony in any state or territory of the United States, unless restored to civil rights... shall be entitled to the privilege of an elector.”⁴³ The Nevada election law defines who can be an elector by cross-referencing this section in the State Constitution.⁴⁴

In 2001, the Nevada legislature passed a provision defining when voting rights could be restored. In the case of a person who is pardoned for an offense, the pardon itself can include a restoration of civil rights.⁴⁵ If the pardon does not restore civil rights, the person who receives the pardon can apply to the state board of pardons commissioners for a restoration of civil rights.⁴⁶ If the board finds that the person has been pardoned, then the board must restore his/her civil rights.⁴⁷ In the case of a paroled prisoner, the board of pardons commissioners can restore the parolee's civil rights at the expiration of the parole if the parolee is honorably discharged, or if that does not happen, then upon application for restoration of rights to the division of parole and probation.⁴⁸ As long as the person was honorably discharged from parole, he/she can regain his/her civil rights.⁴⁹ Finally, in the case of a person convicted of a felony who has served his/her sentence and been released from prison, he/she can apply for a restoration of civil rights to the division of parole and probation.⁵⁰ The application must be reviewed by the court in which the conviction was obtained; however, if the court determines that the person did, in fact, complete his/her sentence and has been released, then the person's civil rights will be restored.⁵¹

What groups of people are affected by Nevada's felony disenfranchisement law?: No felons in prison, jail, on probation, or on parole have the right to vote. Furthermore, all those who are completing their time must apply to the Nevada State Board of Pardons Commissioners or the Division of Parole and Probation, depending on the type of sentence they received, to have their voting rights restored.

New York

What is New York's felony disenfranchisement law?: The New York Constitution requires the legislature to enact laws that prevent certain convicted felons from voting by providing: “The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.”⁵² The Constitution also gives the Governor power to grant clemency through the following provision:

The governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations, as he or she may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons.⁵³

The New York law further provides that:

No person who has been convicted of a felony pursuant to the laws of this state shall have the right to register for or vote at any election unless he shall have been pardoned or restored to the rights of citizenship by the governor, or his maximum sentence of imprisonment has expired, or he has been discharged from parole. The governor, however, may attach as a condition to any such pardon a provision that any such person shall not have the right of suffrage until it shall have been separately restored to him.⁵⁴

⁴³Nev. Const. Art. 2, § 1.

⁴⁴Nev. Stat. 293.055.

⁴⁵*Id.* at 213.090.

⁴⁶*Id.*

⁴⁷*Id.*

⁴⁸Nev. Stat. 213.155.

⁴⁹*Id.*

⁵⁰Nev. Stat. 213.157.

⁵¹*Id.*

⁵²N.Y. Const. Art. 2, § 3

⁵³N.Y. Const. Art. 4, § 4.

⁵⁴N.Y. Elec. Law § 5-106(2).

A similar provision in the law applies to convictions in federal court or other state courts.⁵⁵

What groups of people are affected by New York's felony disenfranchisement law?: Any felon who is in prison, jail, or on parole does not have their right to vote. Similar to California's less restrictive law, New York allows those persons who have been convicted of felonies and were only sentenced to probation to vote even while on probation.

North Carolina

What is North Carolina's felony disenfranchisement law?: The North Carolina State Constitution prohibits convicted felons from voting through the following provision:

No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.⁵⁶

This constitutional provision is mirrored in the State's election law.⁵⁷

Restoring the rights of citizenship under North Carolina law is relatively easy compared to some of the more restrictive states in this study. The North Carolina legislature passed a law that allows voting rights to be automatically restored (the person does not have to apply for restoration) if a probationer, parolee or defendant under a suspended sentence receives an unconditional discharge or if the person is pardoned for his/her offense.⁵⁸

What groups of people are affected by North Carolina's felony disenfranchisement law?: All felons in prison, jail, on probation, and on parole do not have the right to vote. Once a convicted felon receives an unconditional discharge after completing his/her complete sentence, his/her voting rights are automatically restored.

Texas

What is Texas' felony disenfranchisement law?: The Texas Constitution prohibits persons convicted of felonies from voting by providing: "The following classes of persons shall not be allowed to vote in this State... persons convicted of any felony, subject to such exceptions as the Legislature shall make."⁵⁹ It further provides: "The legislature shall enact laws to exclude from the right of suffrage persons who have been convicted of bribery, perjury, forgery, or other high crimes."⁶⁰

The exceptions that the state legislature has made are set forth in the Texas statutes. Specifically, Texas election law provides that, "In this code, 'qualified voter' means a person who... has not been finally convicted of a felony or, if so convicted, has: (A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or (B) been pardoned or otherwise released from the resulting disability to vote."⁶¹ Prior to 1997, Texas had a two-year waiting period after the sentence, parole, or probation was completed before ex-felons could restore their voting rights; however, the legislature passed a law removing the two-year waiting period. Offenses of federal and foreign laws are handled differently in Texas, essentially requiring the person to apply for restoration of his/her civil rights.⁶² In most criminal cases, a person can also apply for a pardon from the Governor.⁶³

What groups of people are affected by Texas' felony disenfranchisement law?: Felons in prison, jail, on probation, and on parole are denied the right to vote. Once their sentence is fully discharged, they are eligible to vote.

⁵⁵*Id.* at § 5-106(3-4).

⁵⁶N.C. Const. Art. VI, § 2(3).

⁵⁷N.C. Gen. Stat. § 163.55.

⁵⁸*Id.* at § 13.1.

⁵⁹Tex. Const. Art. 6, § 1(a)(3).

⁶⁰Tex. Const. Art. 6, § 1(b).

⁶¹Tex. Elec. Code Ann. § 11.002(4).

⁶²Tex. Crim. Proc. Code Ann. § 48.05.

⁶³*Id.* at § 48.01.

Virginia

What is Virginia's felony disenfranchisement law?: The Virginia Constitution disenfranchises persons convicted of felonies by providing: "No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority."⁶⁴ This language is repeated in the Virginia election law, which defines who is a "qualified voter."⁶⁵

Under the criminal laws of the state, a person convicted of a felony (although convictions for certain felonies can exclude the person for eligibility) may petition a court to restore his/her civil rights.⁶⁶ The person cannot petition for the restoration until five years have passed since completion of any sentence, probation or parole.⁶⁷ Once the court approves the restoration, it is then subject to the approval or denial of the Governor.⁶⁸

What groups of people are affected by Virginia's felony disenfranchisement law?: All felons in prison, jail, on parole, and on probation do not have the right to vote. Further, all ex-felons who wish to vote must petition a court, and even if the court approves it, must obtain the approval of the Governor. Only those who have been out of the system for 5 years may apply.

Washington

What is Washington's felony disenfranchisement law?: The Washington State Constitution provides: "All persons convicted of infamous crime unless restored to their civil rights... are excluded from the elective franchise."⁶⁹ Washington's election code defines an "elector" as a person who meets the qualification requirements set forth in Article VI of the Constitution.⁷⁰

In Washington State, the legislature has defined when a convicted felon's civil rights can be restored, but it depends on whether the felony was committed after June 30, 1984 or not. If the person committed the crime after June 30, 1984, then once he/she completes all requirements of the sentence, the state agency notifies the sentencing court, which will provide the person with a certificate of discharge.⁷¹ The issuance of the certificate of discharge automatically restores all civil rights lost by the conviction.⁷² A person can also apply to the clemency and pardons board to request a pardon or restoration of civil rights.⁷³

For persons who committed their felony prior to July 1, 1984, it is more difficult to restore the right to vote. If a person who was incarcerated is released on parole and he/she completes all his/her obligations of release "for such time as shall satisfy the indeterminate sentence review board that his or her final release is not incompatible with the best interests of society and the welfare of the paroled individual," then the board may issue a certificate of discharge.⁷⁴ The board is required to issue the certificate of discharge (thus restoring civil rights of the person) if it has not done so already three years after the person's parole date, unless the person's parole has been suspended or revoked.⁷⁵ For a person who only received probation for a crime committed pre-July 1, 1984 and who has fulfilled the conditions of probation, he/she can apply to the sentencing court, which has the power to release the person from all disabilities resulting from the conviction.⁷⁶

What groups of people are affected by Washington's felony disenfranchisement law?: Any felon under the Washington prison, jail, or community supervision system does not have the right to vote. A former felon who committed his/her crime after June 30, 1984, and completes all requirements of the sentence has his/her right to vote automatically restored. Former felons, who committed their crimes prior to that date, must go through a more complicated process to try to restore their voting rights.

⁶⁴Va. Const. Art. II, § 1.

⁶⁵Va. Code Ann. § 24.2-101.

⁶⁶*Id.* at § 53.1-231.2.

⁶⁷*Id.*

⁶⁸*Id.*

⁶⁹Wash. Const. Art. VI, § 3.

⁷⁰Wash. Rev. Code § 29.01.065.

⁷¹*Id.* at § 9.94A.637(1).

⁷²*Id.* at § 9.94A.637(4).

⁷³*Id.* at § 9.94A.885.

⁷⁴*Id.* at §§ 9.96.010; 9.96.050.

⁷⁵*Id.*

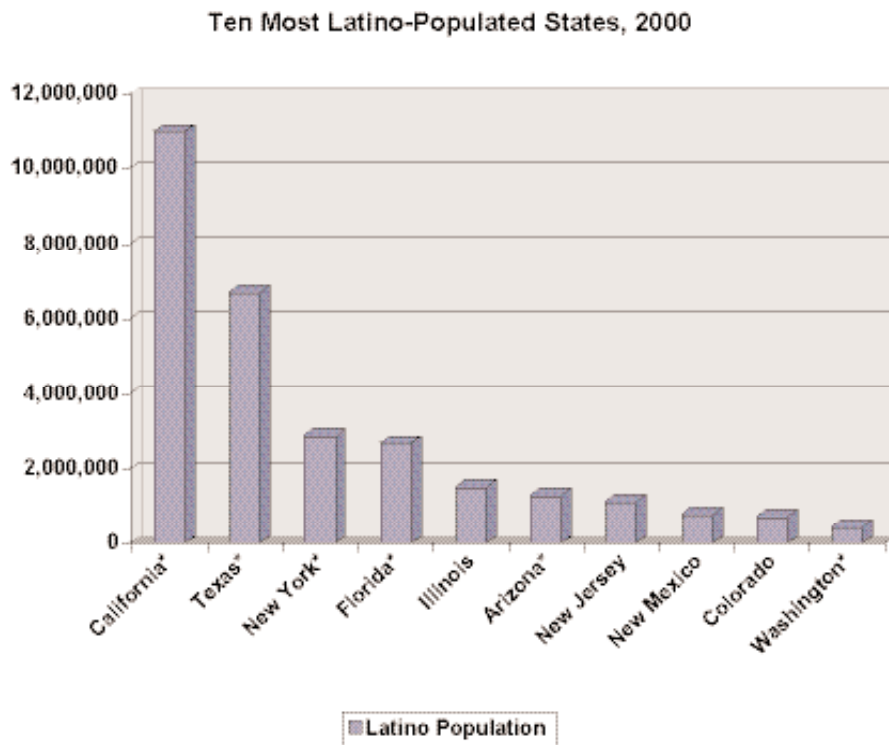
⁷⁶*Id.* at § 9.95.240.

Appendix B: Detailed Description of How Ten States Were Chosen

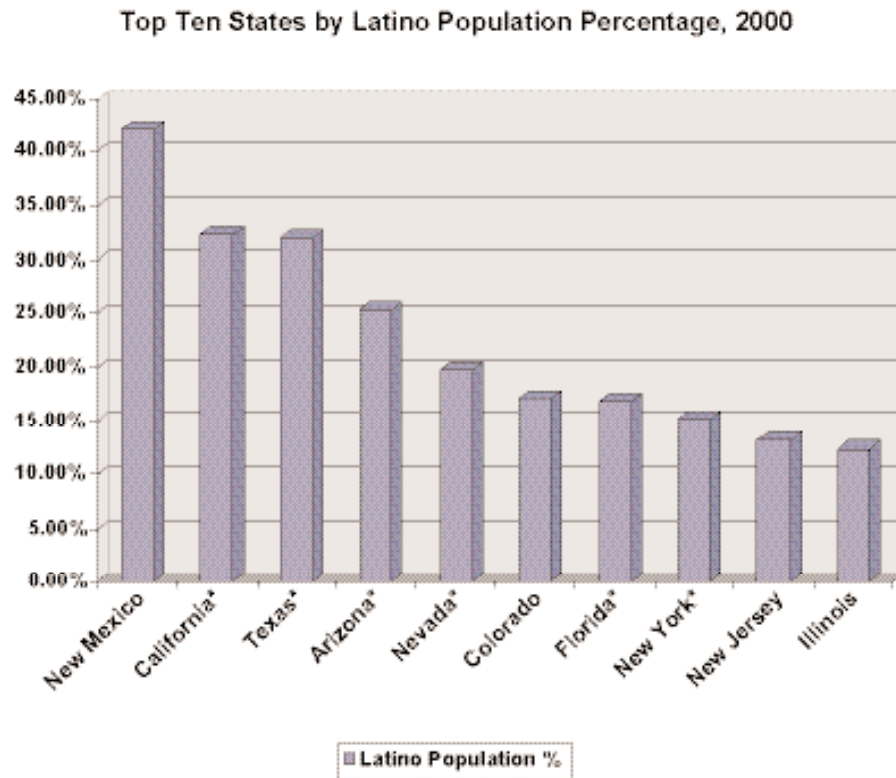
The following text, graphs and maps explain the various factors that MALDEF analyzed in order to select the states of Arizona, California, Florida, Nebraska, Nevada, New York, North Carolina, Texas, Virginia and Washington to study.

Latino Population and Decade Growth

The graphs below include the top states in Latino population and Latino population growth based on the 1990 and 2000 Census. The 2000 Census revealed that over 35 million residents of the United States were of Hispanic origin. The graph below reflects the distribution of that population among the ten states with the largest numbers of Latinos. Most striking is the fact that one out of three Latinos living in the U.S. resides in California. MALDEF concluded that any state study on Latinos would need to include California as one of the states. MALDEF-selected states are marked with an asterisk (*). As demonstrated in the graph, MALDEF chose six out of the top ten states with the largest numeric total of Latinos.

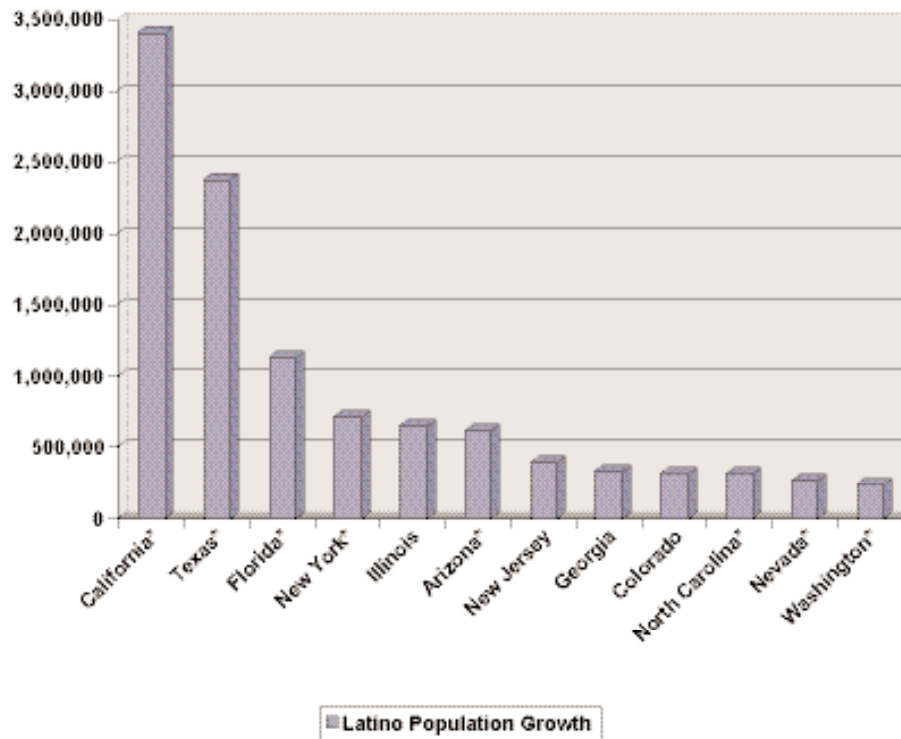


MALDEF next examined Latinos as a percentage of each state's total population. This endeavor revealed that Nevada, a state which did not have sufficient Latino population to make the top ten in Latino population, ranked fifth among the top states with the highest percentage of Latinos compared to the state's total population. The following graph shows that MALDEF selected six out of the top ten states with the highest Latino percentages of the total population. MALDEF-selected states are marked with an asterisk (*).

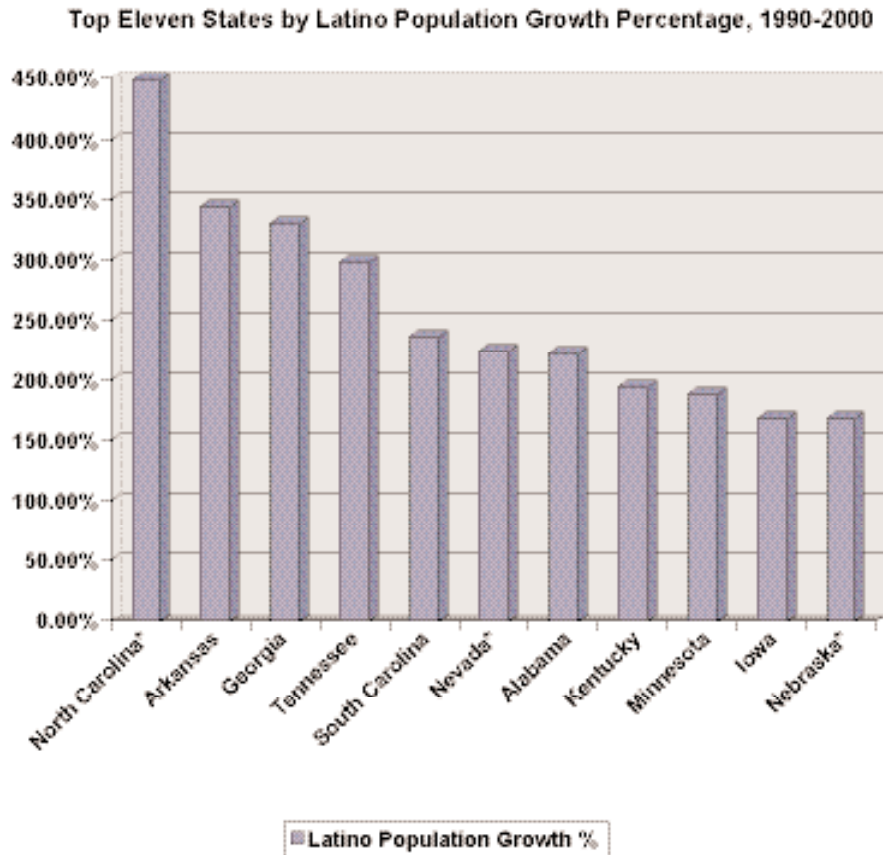


MALDEF next explored which states had experienced the most significant growth overall in the last decade. In addition to states we were considering already, Georgia and North Carolina entered into our conversation. MALDEF selected North Carolina as one of our states to study to be representative of a high-growth state whose total Latino population was not yet significantly large, but whose numbers were noteworthy. The graph below shows that MALDEF selected eight of the top twelve states that featured the highest total Latino population growth in the last decade. MALDEF-selected states are marked with an asterisk (*).

Top Twelve States by Latino Population Growth, 1990-2000



In the area of population statistics, MALDEF also evaluated which states had experienced the greatest growth rates. In part, as a result of this analysis, MALDEF added Nebraska to the states we studied in this report. The following graph shows that MALDEF chose three of the top eleven states where the Latino population growth percentage was greatest over the last decade. Nebraska was selected to be a representative of what is happening in a state not traditionally considered Hispanic, but which had an impressive Latino growth rate. MALDEF-selected states are marked with an asterisk (*).

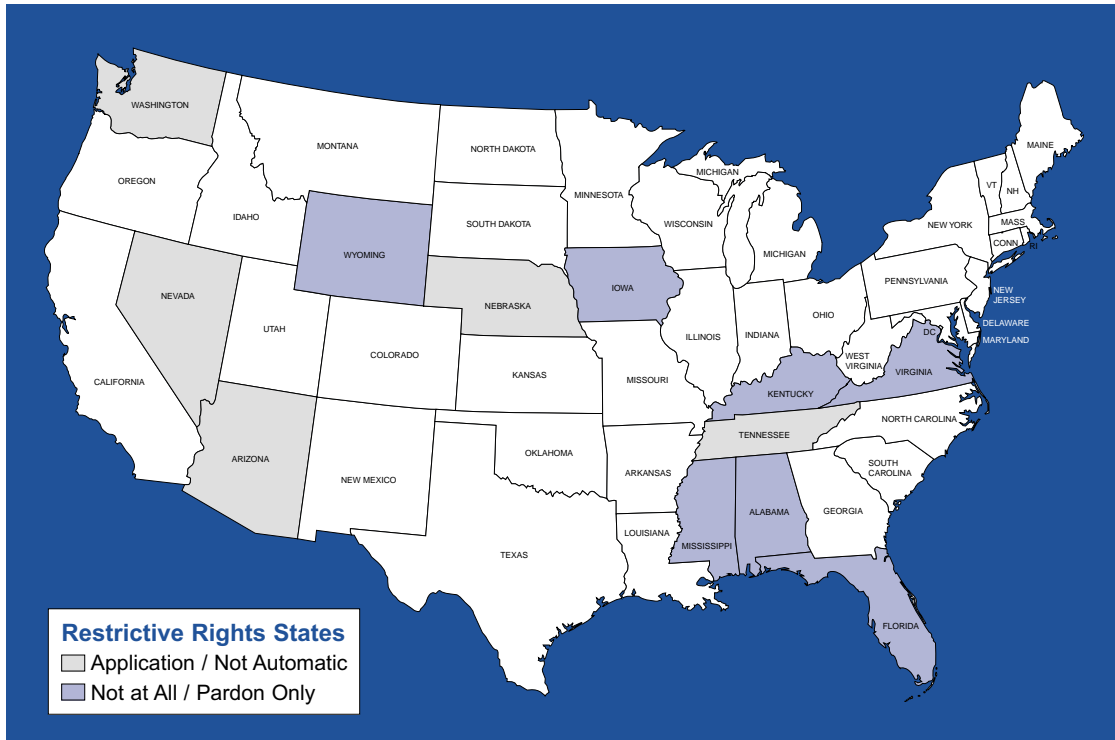


All these factors highlight the overall goal of focusing on states where the Latino population is significant or is significantly growing.

Restrictive States’ Felony Disenfranchisement Laws

After determining states where the Latino population resided and is growing, the next important goal for MALDEF’s research was determining states where the voting rights laws are detrimental for persons convicted of felonies. After researching the states’ basic felony disenfranchisement laws, MALDEF identified the following states, highlighted on the map below, as having the most restrictive laws because they disenfranchise some if not all of their ex-felon population (those who have completed prison, probation, and/or parole):

States with Most Restrictive Felony Disenfranchisement Laws



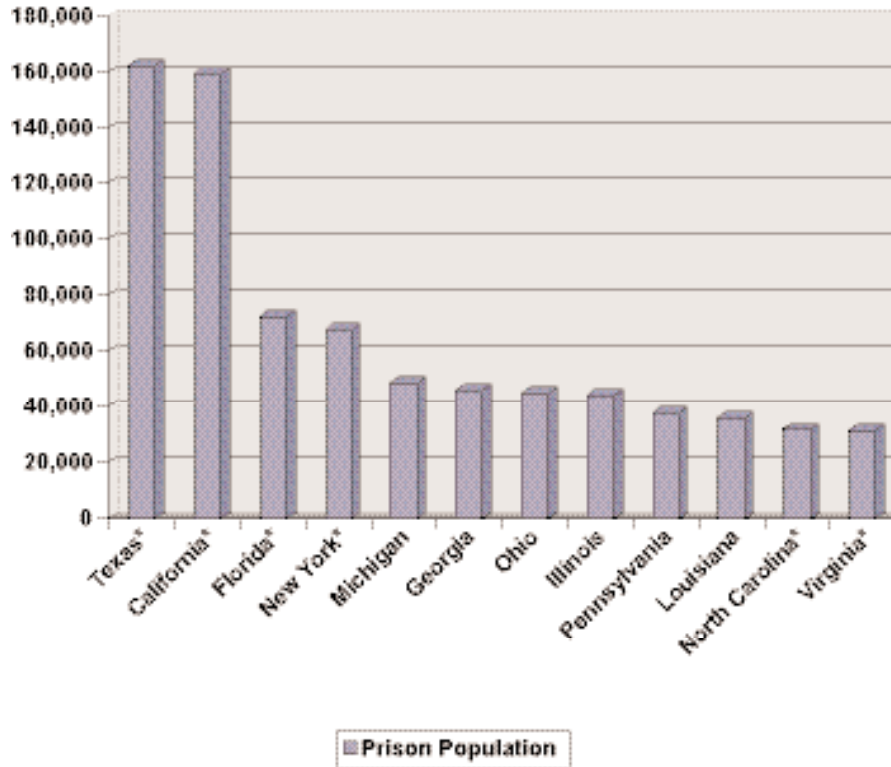
The map highlights that the most restrictive states are mostly concentrated in the Southern United States. The Midwest and Western U.S. also feature a substantial number of restrictive states. Of the fourteen states highlighted above as the more restrictive states in the country, MALDEF chose six to study: Arizona, Florida, Nebraska, Nevada, Washington, and Virginia.

States' Total Prison Population

The third factor in selecting states to study was the total prison population. It was important to know where a state's felony disenfranchisement law would affect the most people. According to the Bureau of Justice Statistics (BJS), the following are the top states in prison populations (selected states marked with asterisk [*]):⁷⁷

⁷⁷Bureau of Justice Statistics, Prisoners in 2001 (July, 2002, NCJ 195189).

Top Twelve States by Total Prison Population, 12/31/01

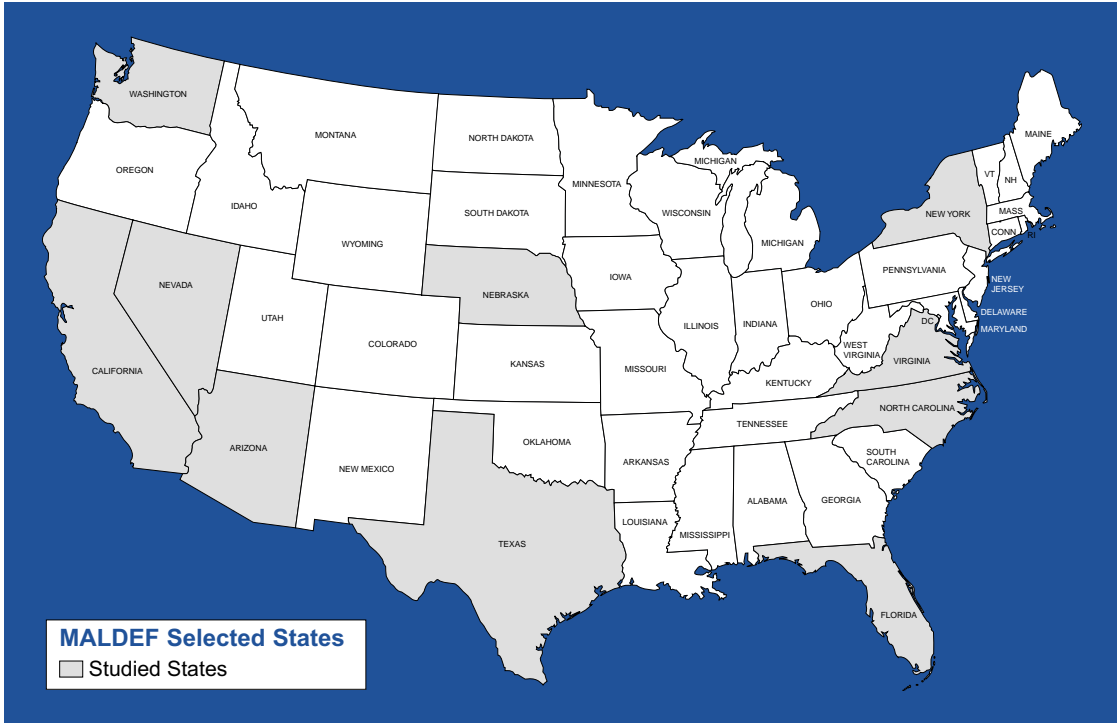


A number of these states are also states we had identified as states with either significant Latino populations or significant Latino growth. MALDEF chose to study six of the top twelve states with the most total prisoners.

Regional Diversity

Finally, MALDEF selected a regionally diverse sample of the United States. Representing the Northeast area of the country is New York. Selected from the South, an area of the country with the most onerous felony disenfranchisement laws and an area showing tremendous Latino population growth were the states of Florida, North Carolina, Texas and Virginia. From the Midwest, MALDEF chose Nebraska, a state that featured a high Latino growth percentage. Finally, MALDEF selected, from the Western region of the country which has the largest Latino populations, Arizona, California, Nevada, and Washington State. The geographic distribution of the MALDEF-selected states is demonstrated in the following map.

Ten States Selected for MALDEF Study



Appendix C: General Methodology by Dr. Christopher Uggen and Sara Wakefield

We compute state-level estimates of the ex-felon population. To determine the number of disenfranchised ex-felons, our estimates are based on exits from rather than entry into correctional supervision. We start with the number of felons released each year. We then use demographic life tables to compute the number of these releases lost to recidivism and mortality annually. Both groups are removed from the disenfranchised population, the recidivists because they would be counted among the “current” felon population, and the deaths because they are no longer at risk of voting. Each existing cohort of disenfranchised releasees is thus successively reduced each year and joined by a new cohort of releasees, allowing us to compute the number of ex-felons no longer under supervision. Also for every year, we reduce the ex-felon estimate by the percentage of Hispanics in the prison, parole and felony probation population. Finally, we reduce the ex-felon estimate to exclude Hispanic felons in the correctional population who are non-US citizens.

- (1) **Prison and Parole:** The number of unconditional prison releases and parole entries was obtained from Bureau of Justice Statistics annual series (e.g. *Correctional Populations in the United States; Sourcebook of Criminal Justice Statistics; National Prisoner Statistics; Race of Prisoners Admitted to State and Federal Institutions; National Corrections Reporting Program*) for the years 1948-1998.
- (2) **Probation and Jail:** The number of felony probationers was also obtained from Bureau of Justice Statistics sources, such as *Probation and Parole in the United States*. Although few jail inmates are likely to vote from jail, our estimate only counts 10% of the mid-year jail population. We adopt this conservative figure to avoid counting misdemeanants and persons who have not yet been convicted of crimes among the disenfranchised, and to avoid double-counting felons who would also appear in other correctional populations (e.g., prison or felony probation).
- (3) **Prison and Parole Recidivism:** We use the national recidivism rate (percent reincarcerated), drawn from the Bureau of Justice Statistics’ *Recidivism of Prisoners Released in 1983*. This 3-year recidivism rate is extended using long-term recidivism studies (e.g. Hoffman and Stone-Meierhoefer 1980; Broadhurst and Mallar 1990) to a 57% lifetime recidivism rate.
- (4) **Probation and Jail Recidivism:** Since probation and jail recidivism rates are likely to be lower, we use the national rate provided by the Bureau of Justice Statistics (*Recidivism of Felons on Probation, 1986-89*); the result is a 5-year probation/jail recidivism rate of 39%.
- (5) **Mortality:** Our mortality rates are age-specific, taken from the *Statistical Abstract of the United States*. These are multiplied by a constant (1.46) to adjust for the greater mortality of felons and to match the death rate in a three-year national recidivism study (*Recidivism of Prisoners Released in 1983*).

Though we believe these numbers provide an accurate estimate of the disenfranchised felon and ex-felon population, we should note that these are estimates rather than precise counts. Possible sources of error include:

- (1) **Recidivism:** Our best estimate uses the average national recidivism rates and extends these rates to align with longer-term national and international recidivism studies. Without evidence from state-specific 50-year longitudinal studies, it would be difficult to verify these lifetime recidivism and mortality rates.
- (2) **Double Counting:** We have taken pains to avoid counting the same person more than once in a single year. Nevertheless, it is possible that a small number of frequent recidivists, those with multiple prison or probation admissions during a single year, and those cycling rapidly through different stages of the criminal justice system may have been counted twice. For this reason, we use a high lifetime recidivism rate for prisoners and parolees (58%) and for probationers and jail inmates (51%) to offset the possibility of double counting in any particular year.
- (3) **Compensating Factors:** Though consideration of these factors may have *reduced* our best estimate of the disenfranchised population to some extent, we also excluded several categories that would have *increased* this estimate. For example, we did not include federal prisoners, parolees, felony probationers, or ex-felons; we also only include 10% of the jail population.

- (4) **Mobility:** In some states (such as Florida) conviction in another state will result in disfranchisement in Florida. Because Florida's in-migration exceeds its out-migration over the period of study (see, e.g., *Statistical Abstract of the United States*) the number of felons entering Florida from other states almost certainly exceeds the number of Florida felons who leave the state. Therefore, the net effect of migration is to increase the total disenfranchised population. We do not attempt to model net mobility in this report for any state, rendering our estimates lower or more conservative than they would be had we incorporated migration.
- (5) **Civil Rights Restoration:** A number of states specify clemency procedures for the restoration of civil rights. Very few ex-felons go through this process but our estimates include no adjustments for the number of felons who had their civil rights restored.
- (6) **Missing Data.** Prior to the mid-1970s, the quality of available data on the number of felony probationers and the race and sex distribution of other correctional populations are problematic. Prior data on the percentage of Hispanics in the correctional population are problematic prior to 1990.
- (7) **Non-citizens.** Legal and illegal immigrants are ineligible to vote in some states. A Bureau of Justice Statistics special report on *Non-citizens in the Federal Criminal Justice System* (1996) found that approximately 55 percent of all non-citizens in Federal prisons are legal immigrants and 45 percent are undocumented immigrants. Applying these percentages to Florida state prison numbers, it would suggest that approximately 3,493 of the state's 1995 prison population of 63,879 were non-citizens, or approximately 5 percent. If Florida trends mirrored trends in the Federal system, a smaller percentage of inmates would have been non-citizens in years prior to 1995; we estimate less than 3 percent in 1984. Therefore, there are likely to be proportionally fewer non-citizen ex-felons than non-citizens currently under supervision. In sum, my procedure may include a number of non-citizens among the disfranchised felon population. We believe this is unlikely to significantly affect my estimates of the total disfranchisement rate, but it may substantially bias estimates for the Hispanic population. We apply an adjustment based on US Census Bureau estimates and *The Correctional Population of the United States* to reduce the estimate so it excludes non-citizens. However, estimates on the number of non-citizens in the correctional population are not available prior to 2001, so this may still bias our estimates in ex-felon states.

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