

VOTING

in **CALIFORNIA JAILS**

A COMMUNITY TOOLKIT

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I. INTRODUCTION

*Voting is a cornerstone
of our democracy –
a system of government
that is strongest when
all voices are included.*

Though the voting rights of people with criminal convictions vary from state to state, most people who are incarcerated in county jails across the country have the right to vote. In fact, in 2016, more than 6 million people¹ nationwide were banned from voting because of a felony conviction – but only about 1% of them were in county jails. There are roughly 82,000 people² in California’s jails and practically all of those individuals who are adult citizens have the right to vote.

People incarcerated in county jails experience obstacles when they reach for the ballot box. For instance, if jail policies limit access to pens, or if the delivery of a vote-by-mail ballot is delayed in a jail’s mailroom, it may be impossible for even a very determined incarcerated voter to register or vote in an election.

As a result, many eligible voters are locked out of the democratic process purely because they are in jail. This is known as “de-facto disenfranchisement,” meaning that eligible voters are denied the right to cast a ballot because of complicated practices and procedures.³

The good news is that there are many strategies for community advocates, county elections offices, and sheriffs to break down barriers to democracy for people in county jails. This toolkit describes some of those strategies, including several different approaches to voter registration and outreach in jails, best practices for overcoming challenges to setting-up or expanding these programs, and practical information on how to get started. This toolkit is primarily intended for advocates and agencies working to empower voters in California jails.⁴

Felony Disenfranchisement:

The History and the Movement to Restore Voting Rights

Denying people convicted of crimes the right to vote (or “disenfranchisement”) can be traced back hundreds of years in American history. But criminal disenfranchisement laws became much more common and more severe in the United States after the Civil War.⁵ After the 13th, 14th, and 15th Amendments to the Constitution extended freedom, citizenship, and voting rights to formerly enslaved Americans, a flurry of states passed “Jim Crow” voter suppression laws to try to stop Black people from voting. One Jim Crow tactic was to combine harsh criminal disenfranchisement policies with over-policing communities of color. This tactic had the intended effect of blocking Black and brown people’s access to the polling place. Between 1850 and 1900, the number of states with felony disenfranchisement laws more than tripled.⁶

Unfortunately, California has its own role in this history – the Golden State wrote criminal disenfranchisement into its first constitution in 1849. Fearing a rise in the political power of Black people, Native Americans, Latinos, and Chinese Americans, California also rejected the 14th and 15th Amendments during the Reconstruction Era.⁷ The California Constitution was amended to become less restrictive in the 1970s, but to this day it bans voting for otherwise-eligible adults who are “imprisoned or on parole for the conviction of a felony.”⁸

Because of continuing inequalities in the American criminal legal system, felony disenfranchisement still harms people of color more than other groups. Nationally, one in 13 voting-age Black people are disenfranchised, more than four times

the rate for the voting-age non-Black population.⁹ In California, about 75% of people who are incarcerated or who are on parole are non-white.¹⁰

Felony disenfranchisement also makes our democracy less safe by preventing impacted people from having a say in the policies that affect their everyday lives. Studies have shown that states with fewer restrictions on the voting rights of people with convictions also have lower rates of re-arrest.¹¹ When people reentering their communities after incarceration are welcomed, they are better able to reintegrate into society.

In recent years, nationwide momentum has been growing to reverse felony disenfranchisement laws. In 2019, for instance, Nevada and Colorado passed laws, with support from both Democratic and Republican lawmakers, that restored the right to vote to people on parole in those states.¹² In 2018, nearly two-thirds of Florida voters chose to restore voting rights to 1.4 million Floridians with felony convictions by passing Amendment 4.¹³ During the two decades before Amendment 4 was passed, a total of 23 states passed laws expanding access to voting for people with convictions.¹⁴

Recent efforts to expand voting access in California:

PROP 17 Proposed state constitutional amendment to **restore voting rights** to Californians **on parole**.

Presented to voters on November 2020 statewide ballot.

California Voting Rights for People Impacted by the Criminal Legal System

ELIGIBLE

TO REGISTER AND VOTE WHEN:

- In county jail awaiting trial
- In county jail serving a misdemeanor sentence
- In county jail as a condition of probation (felony or misdemeanor)
- In county jail serving a felony jail sentence¹⁷
- On probation (felony or misdemeanor)
- On mandatory supervision
- On post-release community supervision
- On federal supervised release
- Finished with parole

In recent years, California has taken great strides to build a more fair legal system and a more inclusive electorate. With this shift, the voting rights of Californians with convictions have gradually been expanded and clarified through a combination of legal¹⁵ and legislative¹⁶ victories. Currently, according to the California Secretary of State, otherwise-eligible adults in California:

NOT ELIGIBLE

TO REGISTER AND VOTE WHEN:¹⁸

- In federal prison serving a felony sentence¹⁹
- In state prison serving a felony prison sentence²⁰
- On parole

Once otherwise-eligible adults are released from state or federal prison and finished with parole, they are eligible to vote. However, they **will** need to register to vote again in order to cast a ballot. For more information and resources about eligibility, visit letmevoteca.org.

Important Terms and Definitions Used in this Toolkit²¹

Criminal Legal System: The collection of institutions and structures - including police, courts, and jails and prisons - that punish individuals for noncompliance with criminal laws and rules.

Disenfranchise: To deprive a person of the right to vote.

Elections Office/Elections Official:

Also known as the local Registrar of Voters or Elections Department. Elections officials are staff who administer the local elections in each county.

Felony: A crime that may be punished by a year or more of incarceration. In California, certain felonies that are considered less serious (“non-violent, non-serious, or non-sexual” or a “realignment/AB 109 felony”) may result in probation sentences or incarceration in county jail, while felonies that are considered more serious (“violent, serious, or sexual”) may result in incarceration in prison. Otherwise-eligible adults convicted of a felony keep their voting rights unless they are currently in prison or on parole.

Formerly-Incarcerated Person/Person with a Felony Conviction:

Acceptable alternatives for terms like “ex-offender,” “ex-felon,” or “ex-convict” used to convey that someone whose life has been impacted by the criminal legal system is first and foremost a person.

Jail: Local detention facilities, operated by city or county law enforcement, that incarcerate people who are awaiting trial, sentenced to jail time for a misdemeanor conviction, or sentenced to jail time for certain felony convictions. Most otherwise-eligible adults keep their voting rights while they are in jail.

Mandatory Supervision: A judge may sentence a person to a combination of jail time and supervision in the community by a county probation officer; also known as “split sentencing.” Otherwise-eligible adults on mandatory supervision keep their voting rights.

Misdemeanor: A crime that may only be punished by up to 364 days of incarceration in jail or other non-incarceration sentence. Otherwise-eligible adults with a misdemeanor conviction keep their voting rights.

Post-Release Community Supervision (PRCS):

A period of supervision in the community by a county probation officer after release from state prison for a person who was incarcerated for a “non-violent, non-serious, or non-sexual” felony. Otherwise-eligible adults on PRCS have their voting rights restored once they leave prison and begin the PRCS portion of their sentence.

Prison: “State prison” refers to a system of detention facilities, operated by the California Department of Corrections and Rehabilitation (CDCR), that incarcerate people who have been convicted of certain felonies. “Federal prison” refers to a system of detention facilities, operated by the Federal Bureau of Prisons, that incarcerate people convicted of a felony under federal law. Otherwise-eligible adults lose their voting rights while they are in either state or federal prison.

Parole: A period of supervision in the community by a state parole officer after release from state prison. Otherwise-eligible adults lose their voting rights while they are on parole.

Probation: The suspension of the imposition of a criminal sentence and the order of conditional and revocable release in the community under the supervision of a probation officer.

Reentry/Reentering Person: Reentry is the process of re-integrating into the community and re-building foundations such as housing and employment after a period of incarceration. A reentering person is someone who was recently released from jail or prison.

Sheriff/Sheriff's Department: Sheriffs' departments are county agencies whose responsibilities typically include administering and staffing county jails. In some counties, the local jail is run by administrators that are not part of the sheriff's department. For consistency and as shorthand in this toolkit, "sheriff" includes those jail administrators.

Vote-By-Mail Ballot: A ballot that is mailed to a voter before Election Day and then completed by the voter and returned to the elections office by mail; formerly known as an "absentee ballot." This is the most common form of voting for incarcerated people. Voters can request to receive vote-by-mail ballots in every election by checking the appropriate box on their voter registration card, or they can request a vote-by-mail ballot for a single election by sending a completed vote-by-mail ballot application to the elections office.

Voter Registration Card: A paper or online form, or "affidavit," that a person must complete and return before voting. Also called a voter registration application.

II. MODELS FOR VOTER REGISTRATION AND TURNOUT IN LOCAL JAILS

There are many ways to approach voter registration and voting from jail. The circumstances and stakeholder relationships in your county will influence which approach makes the most sense in your community. A model that uses volunteers to provide voter registration and civics education inside the jail requires active cooperation from the local sheriff's department, and a model that empowers incarcerated people to register other voters in jail relies on coordination and trust between inside-organizers and outside-organizers.

The models discussed below are informed by existing programs in California. Sidebar examples provide context and details from voter engagement work at jails throughout the state. The models in each section are presented in order of popularity.

A. Voter Registration

1. Advocate Registration with Assistance from Elections Office and/or Sheriff's Department

Under this model, organizations collaborate with staff from the local elections office and sheriff's department to allow organization representatives to go into jails to conduct voter registration with people in custody. Start by reaching out to your local elections office and to the program staff in the local sheriff's department to find out what jail voting programs already exist in your county. The jail's program staff are typically responsible for reviewing proposals for new voter engagement activities and can assist organizations in applying for security clearance for their volunteers. See more on clearance in Sections III and IV below.

Elections officials can provide support in different ways under this model, including by training organization representatives, providing voter education materials, and in some cases accompanying organization representatives into jails. Jail staff typically assist by granting access to organization representatives and

escorting them to housing units in the jails. In some cases, jail staff make announcements in the housing units and escort people in custody to organization representatives in designated parts of the jails.

This model requires full cooperation from the sheriff's department and that elections officials and advocate groups have the capacity to provide registration services consistently. When working with volunteers under this model, it can be helpful to organize volunteers into groups based on when they will be providing voter registration in the jail and to train the volunteers from each group together.

This model can vary depending on the type of advocate attempting to provide voter registration services inside the jail:

County Agencies/Departments

County agencies such as public defender offices and elections offices are able to leverage county relationships to gain access to jails.

Community-Based Organizations/Groups

Community-based organizations that engage in advocacy work may encounter challenges, including not having a developed relationship with their local sheriff's department. For various

reasons, some organizations may face fewer hurdles when seeking access than others do. A broad, diverse coalition of organizations working together can help forge connections inside and outside of government and establish a successful, collaborative program.

The **Los Angeles Regional Reentry Partnership ("LARRP")** – a network of public and community advocates working together to ensure that the county's reentry system meets the needs of agencies, communities, and the people they serve – collaborates with staff from the Los Angeles County Sheriff's Department ("LASD") and the Los Angeles County Registrar to allow LARRP and other allied organization volunteers to enter the jails to register voters. Volunteers send LARRP their full name and a copy of their driver's license for LASD to use to perform a background check. LARRP then trains volunteers on how to register voters and schedules groups of volunteers to enter the jails. LASD is also launching a pilot program at the Lynwood Women's Jail to allow voting machines (along with Los Angeles Registrar staff and volunteers) into the facility for two days before the March 2020 Primary so that people who are incarcerated there do not have to use a vote-by-mail ballot. Organizations from the **Los Angeles Free the Vote Taskforce**, including ACLU of Southern California, support the county's jail voting program in a variety of ways including by hosting resources online. Taskforce member organizations that are led by people impacted by the criminal legal system, such as **A New Way of Life**, have led voter registration and turnout work in Los Angeles for many years.

In San Diego, the sheriff's department denied access to **Pillars of the Community**, an organization focused on helping those affected by the criminal justice system. Pillars of the Community then reached out to the League of Women Voters San Diego to partner and gain access. That partnership resulted in a successful voter registration drive in eight facilities over two days.

Members of the Alameda County Juvenile Justice and Delinquency Prevention Commission and **League of Women Voters** work with the Alameda County Probation Department to teach young people detained in juvenile halls about voting rights. League members who serve on the Commission are granted greater access and are able to work with the librarian at the juvenile hall to provide young people with materials, including registration forms, and register those that are eligible. League members are also able to stay in touch with the young voters to help them receive their ballot, to track their ballots during an election to make sure they are received by the elections office, and to help facilitate registration updates as the new voters move to different addresses.

In Alameda County, the **Public Defender's Office** created a program called **V.O.I.C.E.** (Voting Outreach Increases Community Empowerment) that collaborates with both the Alameda County Registrar of Voters and the Alameda County Sheriff's Office. The Alameda Public Defender's Office trains 2-3 of its staff members so they can train larger groups of volunteers, and it requires that all volunteers in the program be trained once a year. The Public Defender's Office works with the Sheriff's Office to schedule days for volunteers to go into Santa Rita Jail to do voter education and registration. Jail staff escort the volunteers through the jail to make announcements to incarcerated people about their voting rights. Volunteers then sit down individually with interested potential voters to review eligibility requirements. If incarcerated people indicate that they are eligible to vote, volunteers register them to vote. Completed applications are delivered directly to the Alameda Registrar of Voters. The Public Defender's Office works closely with elections officials and jail staff to improve the process and ensure that incarcerated people are able to exercise their right to vote from jail. The Alameda County Public Defender's Office has registered more than 900 people in three years.

2. Incarcerated Person Registration with Advocate Assistance

Under this model, organization representatives train people in custody to register other people in the jail to vote. This model works best when organization representatives have existing relationships with people in custody or relationships with organizations that do. Representatives must research visiting rules and procedures and decide whether to seek access to the inside of the jails through the sheriff's department or to operate their program through public visitation. Sheriffs' departments often have information about visiting hours and guidelines online. If groups are denied access to the jails, training incarcerated people through public visits to do voter registration may be the best alternative.

Once the program kicks off, organization representatives should be available - either on site or remotely - to answer questions, troubleshoot, and address challenges with jail staff and elections officials.

Whether training other people in custody or registering oneself and/or others, incarcerated people should lead efforts as much as possible and tap into advocate assistance as needed.

The inside-organizers model follows the train-the-trainer model, wherein a group of individuals train people in custody and simultaneously teach them how to train others. This method allows people in custody to become their own advocates by providing them with the necessary tools to do so. People in custody are the best and most credible messengers for this work. It is important to involve impacted individuals at every stage of the process and to center their agency, experiences, and leadership.

Pillars of the Community operates a multi-pronged approach to voter registration in San Diego jails, but their most successful approach involves training incarcerated people to serve as inside-organizers and register their fellow voters in jails. In partnership with allies that include California Calls and Silicon Valley De-Bug, Pillars of the Community recruits volunteer outside-organizers and awards paid fellowships to inside-organizers participating in their Inside Organizer Civic Engagement Fellowship program.

At first, Pillars of the Community experienced challenges in paying stipends to inside-organizers. Organization representatives put money on inside-organizers' commissary accounts ("books") until deposits were declined by the Sheriff's Department. The deposits were flagged as suspicious until the Sheriff contacted Pillars of the Community and the situation was resolved - highlighting the importance of coordinating with jail staff wherever possible.

Representatives from Pillars of the Community trained inside-organizers during public visits using a training handbook they developed. Incarcerated people are typically allowed one public visit per visiting day. Training inside-organizers through visits requires both a strong understanding of the jail's visiting rules and significant coordination with families and friends of incarcerated individuals to avoid scheduling conflicts. To maintain regular communication with their inside-organizers, Pillars of the Community also set up a phone account that enabled inside-organizers to contact outside-organizers about issues and questions related to their voter registration work.

3. Registration through Mass Emails and Mailers

Under this model, outside-organizers use the jail's general mail system (i.e., the non-legal mail system) or, where available at some jails, email system to send elections information directly to incarcerated voters. This model can be a good option when organizations encounter the challenge of an uncooperative sheriff.

Not all sheriffs' departments in California publicly list the names, booking numbers, and jail facilities of people in their custody.²²

The organization representatives then send voter registration cards, information about how to register to vote, or other helpful election information to incarcerated people on their mailing lists.

This model requires significant volunteer support to prepare mailers and send emails, as well as capacity to address questions and respond to requests for assistance. Be aware that mail sent through a jail's general mail system - whether by traditional or electronic mail - may be reviewed by jail staff and that some counties' email systems for incarcerated people may require a clearance application process. Check the mail rules for your local jail before you get started.

In 2018, the Orange County Sheriff's Department denied the **American Civil Liberties Union of Southern California (ACLU SoCal)** access to the jails to conduct voter education and registration. As a result, organization representatives developed educational materials, secured voter registration applications and vote-by-mail ballot applications from the local elections office, and mailed those materials to people in custody. Incarcerated people then had to determine their own eligibility, fill out the application (if eligible), and mail the application to the elections office through the jail's general mail system. Organization representatives recruited volunteers to help identify potential voters in custody through an online database and by talking to friends and families of incarcerated people at jails during public visitation days. ACLU SoCal also coordinated with inside-organizers to communicate to incarcerated voters that elections information was on the way and set up a voter registration table outside of the entrance to the jail to register visitors and people being released.



4. Elections Office Registration with Assistance from the Sheriff's Department

Under this model, the sheriff's department allows elections officials into jails to do registration and/or voter education presentations. This model makes elections officials primarily responsible for coordinating with sheriff's departments to ensure that registration cards and elections materials get to incarcerated people and ballots get returned on time.

If the local elections office is willing and able take on the task of managing and staffing a jail voter registration program, this model can help ensure that registration services and accurate

elections information are consistently available to incarcerated voters. It can be used as part of a strategy to free up resources for community organizations to do civic engagement work with eligible adults who are not incarcerated but who may incorrectly believe their criminal record prohibits them from voting. This model can also be a good option in counties where the sheriff's department will not allow community organizations into the jail or where there are no community organizations in the area with capacity to conduct a jail voting program.

5. Sheriff's Department Registration with Assistance from Elections Office

Under this model, jail officials oversee voter services with external support from elections officials at different stages of the process. Advocates and elections officials are not allowed into jails to register incarcerated people, and the model relies on sheriff training and program management to get incarcerated people registered.

Under this model, the amount of support provided by the elections office can vary. In some places, elections officials are not involved beyond providing jail officials with voting materials such as registration applications, vote-by-mail applications, voter information guides, and ballots. In other places, elections officials provide assistance throughout the process in addition to giving jail officials voting materials. Additional assistance can include training jail staff, answering questions, and logging registration and vote-by-mail applications and ballots.

This model may be effective in counties where the jail has a robust programming or legal services division that has capacity to run a jail voting program, in counties where community organizations and the election office do not have the resources to coordinate such a program, and/or in jails that have unusually high security considerations. Potential challenges to this model include that it may be difficult to establish trust between incarcerated people and sheriff's department staff, incarcerated people may be skeptical about participating or about the fairness of the program, or jail staff may not follow their own program requirements.

Santa Cruz County Elections Office staff work directly with the **Santa Cruz County Sheriff's Office** and go into the jail to conduct voter education and registration several times before each election. Elections officials coordinate with a designated staff member at each jail facility to schedule voter education presentations and days when representatives from the elections office can register eligible voters in custody. Elections officials typically go inside the jails during class or programming time and walk through facilities to speak directly to incarcerated individuals. Jail staff accompany elections officials at all times. Elections officials track the voter registrations they collect and create a list of registered voters in each jail that is then shared with the Sheriff's program manager so that jail staff can help distribute and return elections materials. Elections outreach staff work with vote-by-mail program staff at the jail to arrange for the hand delivery of voter information guides and ballots and the timely return of ballots.

The **Napa County Elections Division** and **Department of Corrections** coordinate delivery of voter registration materials to the county jail before the registration deadline. Corrections officials coordinate the return of completed applications to the elections office, the delivery of vote-by-mail ballots to registered people in custody, and the return of completed vote-by-mail ballots to the elections office.

The Prisoner Legal Services ("PLS") unit at the **San Francisco Sheriff's Department** works in close partnership with the local **San Francisco Department of Elections** during each election. The PLS unit is involved in registering eligible people in custody to vote and ensuring that registered voters are able to successfully cast their ballot. PLS staff visit every housing area in each of three jails, deliver registration applications specifically marked "Inmate Voter Program," help fill out applications, track completed applications, and return them to the Department of Elections. PLS also takes the time to educate other jail staff on voting rights of incarcerated people, as needed. The San Francisco Sheriff's Department has provided voter registration support to people in its custody for 16 years.

B. Voting from Jail

Once a voter in a local jail is registered, they must then navigate the process of actually casting their ballot in time for it to be counted for an election.

Without assistance, people in custody will typically receive their ballots and return them to the elections office through the jail's general mail system (i.e., the non-legal mail system) – in some jails, this system can be slow or unreliable. Jail staff can help make this process smoother by working with the local elections office to track registered voters within the jail system, distribute

the correct ballots to incarcerated voters, and coordinate the timely return of completed ballots to the appropriate elections offices.

Organizations, elections offices, or sheriff's departments may also choose to make assistance available to incarcerated voters as they complete their ballots. Programs that include this service should be sure that the people providing ballot assistance are adequately trained in elections rules and never attempt to influence the voting choices of the incarcerated voters.

The Prisoner Legal Services (“PLS”) unit at the **San Francisco Sheriff's Department** picks up vote-by-mail ballots from the San Francisco Department of Elections, distributes the ballots to incarcerated voters in their housing areas, returns to each housing area to pick up completed ballots at a designated date and time, and hand-delivers them back to the Department of Elections. As with voter registration and vote-by-mail ballot applications, PLS maintains a log of where ballots are distributed within each housing unit.

Staff from the **Alameda County Public Defender's V.O.I.C.E. Program** are hoping to work with elections staff to create a voter information guide to help people in custody better understand the electoral races on their ballots.



III. BEST PRACTICES FOR STARTING OR EXPANDING A JAIL VOTING PROGRAM

Do your research.

If your organization or agency is just beginning this work, start by getting the lay of the land of in-jail voter registration in your county. For example, you can gather information on how many detention facilities are in your area, how many people are detained, and an approximation of how many of those people are eligible. Knowing this information will help you gain a better understanding about the work you want to do and will help you measure your progress along the way.

In addition to knowing your local sheriff's department rules for jail access and the state and local rules related to overall voter registration (see below), we also recommend that you start by reviewing any policies your local jail and elections office may already have related to voting from jail. You can find these policies at letmevoteca.org or by contacting your local sheriff's department²³ and elections office.

Know the Rules: Jail clearance and mail.

When developing a voter registration program for people in county jails, it is important to be aware of the rules around who and what are allowed to go into and out of jails. The rights of incarcerated people and members of the public may be restricted by certain security interests expressed by the jail, even when it comes to voter registration,²⁴ and each prison and jail system has different policies regarding visitor access, mail, and allowable materials.

California's jails are under the supervision of 58 different counties, and each county's sheriff's department has its own rules. The rules and procedures on access vary depending on whether the member of the public seeking access is a personal visitor or correspondent of an incarcerated person, an attorney, or someone who would like to offer programming and services like voter registration. For example, in Los Angeles County, volunteers must apply to the Religious and Volunteer Services office in the Sheriff's Department at least four weeks prior to their first visit, provide a copy of their driver's license, and meet a list of criteria that the Sheriff's Department has posted publicly, including that the volunteer has not been incarcerated in any federal prison, state prison, or county jail within the last 5 years.²⁵ See the Resources section below to learn more about how to obtain the jail policies in your county.

Know the Rules: Voter Registration

California law provides protections for the rights of voters, including those who are incarcerated in county jails. Individuals or organizations doing voter registration are required to obtain Voter Registration Cards from the county elections office or the Secretary of State²⁶ and it is a crime to interfere with the return of a Voter Registration Card.²⁷ Similarly, it is a crime to willfully interfere with the delivery or return of a vote-by-mail ballot.²⁸

There are also specific requirements related to the distribution of those cards, including that advocates must provide the voters they are helping to register with a completed receipt from their voter registration card and that a person doing voter registration must distribute a registration card to anyone who requests it (if they have enough available).²⁹ It's also important to be aware that voter registration information may only be used for election related purposes, and any person or organization that collects completed voter registration cards must return them to the appropriate elections official within three business days.³⁰ Collaborating with your local elections office to design and conduct trainings is the best way to make sure you comply with the rules for voter registration.

Get Connected.

Because each county has its own dynamics, policies, and procedures, developing partnerships with different groups and agencies is the best way to get your program off the ground.

County Sheriff's Department

You will want to find out who at your county sheriff's department you need to know to get started. Who is it that will approve your request to do voter registration in jails? Who is the best contact to help with logistics? Visit **letmevoteca.org** or the website of your county's sheriff's department for general contact information.

County Elections Office

Staying in touch with your elections office can open the door to a wealth of resources and people power. It is possible that the elections office will want to get directly involved by assisting at registration events. If not, they can still provide you with registration cards and other handouts to help new voters. In some cases, elections officials may also be able to help advocate with the county board of supervisors to secure resources for a more robust jail voting program. Visit **letmevoteca.org** or the website of your county's elections office for general contact information.

Impacted Communities and Organizations

It is highly recommended that you include and center people impacted by the criminal legal system in your voter registration work. If you or members of your organization have not interacted with the criminal legal system, consider reaching out to and engaging other groups whose members have. They will bring a wealth of knowledge, understanding, and credibility to your efforts.

Plan Ahead.

Planning a voter registration drive in jails takes time, so get started early. It could take several weeks or even a few months to get everything organized, including:

- Finding community partners.
- Getting approval to engage in the work from the facility you are trying to enter.
- Building and training your team.
- Picking-up and/or downloading any necessary registration cards, vote-by-mail applications forms, or other elections materials.
- Getting your team ready to enter the facility. The jail will require each volunteer to complete paperwork for security clearance purposes and there may be an additional training they will have to attend, such as Prison Rape Elimination Act training.

Due to the ever-changing nature of jails and the potential for people to be transferred or released, it is best to hold your voter registration drive at least a month or two before an election.

Remember that every facility is different.

Jails are constantly changing. The people who run them may change positions, which may result in the cancellation of voter registration programs or the alteration of policies and procedures. Similarly, people who are detained may be transferred to different facilities or may be released. It is difficult to prepare for so many variables, so it is best to equip yourself - and those you register - with as much information as possible.

Follow up and track your progress.

The more you stay in touch with your partners and track your progress, the stronger your program will be. Before you wrap up your registration drive, make sure you capture as much information as you can about your event. At minimum, keep records of date, facility, and how many people you registered. This will enable you to keep important information organized as you grow your program. Similarly, one of the most effective ways to measure the success of your program is to work with the elections office and sheriff's department to track the number of completed registrations and returned ballots from each jail each election. Collecting survey responses from the incarcerated voters you worked with can also be a valuable source of feedback for improving your program.

Always follow up with your contacts at the jail, the elections office, community groups, or anyone else that helped facilitate your registration drive. Let them know how much of a success the event was and start planning for the next one!

Registering and pre-registering voters in juvenile facilities can be especially tricky, but juvenile detention facilities are required to assist people in their custody who are old enough to register with voter registration. Cal. Elec. Code § 2105.7. Start by finding out if your county elections office is already in contact with staff at the juvenile facility, such as a probation officer or a facility librarian, and learn about what the program is. If your elections office is not in touch with the juvenile facility, contact the facility directly to find out about current registration efforts and to get the help of facility staff to set up an event and gain access.

Make sure you start planning your registration drive several months in advance because juvenile facilities may have extra steps for volunteers to complete before they can enter the facility. This could include paperwork, fingerprinting, or half or full day trainings. Timing is important: young people in the criminal justice system move around a lot. Doing a drive in the month or two leading up to an election increases the likelihood that they will be able to vote without having to update their registration.

When doing voter registration with young people who are detained, there are a few questions that might arise:

- They might not be sure which address to list as their permanent residence.
- Their home address is usually ideal; make sure the young person knows they can enter their family's current address. They can also use another address, including the juvenile facility in which they are housed. If they will be in custody on the day of the election, it is crucial that they list the juvenile facility as their mailing address in order to receive their ballot there and vote from the facility.
- They might not know the last four digits of their social security number or have a driver's license or state identification card. They also might not be able to reach out to their family for that information depending on their situation. See "Identification" in the Quick Tips for Common Jail Voting Questions section below.

Sixteen- and 17-year-olds are eligible to pre-register to vote. However, because of the increased likelihood that a pre-registered young person will change addresses before they turn 18, make sure you let them know that they will have to re-register if their address changes.

Keep in mind that this could be the first time this young person is engaging in the elections process, and they may be unfamiliar with terms that are common to most adults, such as knowing the difference between the various political parties. Be prepared to educate them and answer basic questions about the process.

IV. QUICK TIPS FOR COMMON JAIL VOTING QUESTIONS

Contraband: Every jail has different rules regarding what can be mailed or brought into the facility. All jails prohibit visitors from bringing in cell phones, but contraband rules can also include more unexpected items. We recommend contacting the jail and asking for that jail's policies regarding mail and what can or cannot be brought in.

Staples/Paperclips: Be careful of mailing in any papers that are stapled or paperclipped, as staples and paperclips are often deemed contraband and stapled or paperclipped items are likely to be returned. This applies to voter guides or other materials prepared by your local elections office. We recommend engaging your local elections office to see if they can prepare separate materials which do not have staples that can be sent into jails. This request needs to be done as early as possible because county elections offices prepare these materials weeks or months before Election Day.

Pens: Pens can be difficult to obtain in jails, and your county's voter registration form or ballots may say to use blue or black ink. Nonetheless, some elections offices - such as the Los Angeles County Registrar - will accept registration forms filled out with pencil. We recommend confirming with your local elections office whether forms completed with pencil will be accepted and making this information clear to your volunteers. If you are engaging in a mail-based in-reach effort, we also recommend enclosing a notice to inform incarcerated people that pencil is acceptable because the registration form itself does not make this clear.

Identification: The California voter registration form requires either a California driver's license or

identification card number or the last four digits of a social security number, if a voter has any of these available. They do not need to provide both their driver's license/identification card number and the last four digits of their social security number. Many people who are incarcerated do not have easy access to this information. We recommend giving people who are incarcerated as much advance warning as possible of this requirement so that they can ask that family or friends bring or send them this information. A person may still register to vote without one of the above identification numbers, but they may need to provide identification when voting for the first time and the elections office may have to follow up with the registrant before they are allowed to vote by mail. The follow up process may be challenging and we advise not to leave the identification number blank, if avoidable.

Addresses: *Home address:* We recommend that eligible people in jails register to vote using their home or permanent address. By doing so, they will be able to vote on issues and for elected officials in their community. If the voter experiences houselessness, they may choose to register at the cross street of a location where they usually reside. It's also common for voters to be incarcerated outside of their home county. Work with your local elections office to make sure they can coordinate with the elections office in the incarcerated person's home county and send the voter registration information where it needs to with enough time before the registration deadline.

Mailing address: If the incarcerated voter knows they will be in custody on Election Day, they should use the jail address as their mailing address to receive voting materials there. If the voter is transferred to a different jail, they should contact the election office to update their address. Sheriffs' departments often do not forward or redirect mail to other jails within the same county. If the voter knows they will be released before Election Day, they should put their permanent address or an address where they can reliably receive mail as their mailing address.

Booking numbers: Including the incarcerated voter's booking number as part of their mailing address, or when tracking the distribution and return of voter materials, can help make sure those materials are routed to the incarcerated voter as quickly as possible. In counties where sheriffs' departments do forward or redirect mail to other jails within the same county, this can only be done if jail staff know the booking number of the incarcerated person the mail is being sent to. Counties may have different practices as to whether booking number should be included on the registration form or only on a vote-by-mail application, so please contact your county elections office to confirm what practice they prefer.

Transferred to a different facility: Mail will usually be returned if someone is no longer at the facility where the mail was sent. It varies county by county whether there is a database online to check if someone is still in a facility and some databases require date of birth. This is important to keep track of, especially if you intend to send follow-up surveys. Advise the registrant to update the mailing address on their voter registration with their new facility if they have moved.

Released before Election Day: If voters are released from jail before Election Day and they were registered at the jail facility, they may re-register at their new home address. While advance registration is preferable, they may also register and vote on the same day at any polling place or Vote Center in their county.

Political party: California voters may register with a political party or as a "no party preference" voter (often referred to as an independent voter). No party preference voters will need to take extra steps during a presidential primary to vote for a candidate from a particular party. If voters have questions about which political party to select, you can give them the League of Women Voters of California's fact sheet on

How to Choose a Political Party, which is available at easyvoterguide.org. The sheet has nonpartisan information about the six major political parties as well as what it means to register as a no party preference voter. The facts come directly from the state parties and it is written in plain, easy-to-understand language. Remember not to use staples after printing the material.

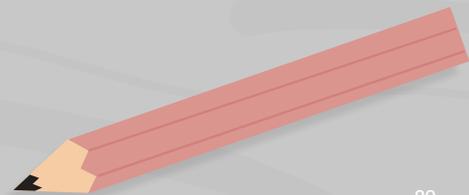
Postage: Completed voter registration forms and vote-by-mail ballots do not require postage if mailed within the United States but mailing most other kinds of materials to elections offices (i.e. vote-by-mail application forms) will require postage. It is also a best practice to mail in the voter registration form and vote-by-mail application together. Obtaining postage can be difficult inside jails, so make sure you clearly explain when postage is required and when it is not.

Envelopes: When returning a completed vote-by-mail ballot, voters should be sure to sign the outside of their envelope in the space provided. Elections officials will compare the signature on the envelope to the one on the voter's registration record before counting the ballot.

Clearance: The clearance process to enter into a jail can be different in each

facility. We recommend applying for clearance as far in advance as possible - at least four weeks before you intend to enter the jail - in order to build long waiting periods into your timeline. If a person who is attempting to access the jail to do voter registration has a previous arrest or conviction, they should plan to build in additional time for clearance and be prepared to provide a letter of recommendation or information about their record. Reach out to the sheriff's department as early as possible and inquire what is required to be cleared to enter the jails. And don't be afraid to follow up regularly.

Dress code: Each jail has its own dress code rules for visitors, but generally visitors are prohibited from wearing sandals, revealing clothing, extremely worn or torn clothing, and clothing depicting violence or illegal activity. Some institutions may also prohibit visitors from wearing specific colors (i.e. colors that are close to the color of uniforms or clothing worn by deputies or incarcerated persons). When doing voter registration and outreach work, advocates should also avoid wearing clothing that displays images or messages that express positions on any campaigns or ballot measures (also known as "electioneering").



V. RESOURCES

MY VOTE, MY VOICE, MY RIGHT

A. County Elections Offices

County elections offices should be used as a resource in the creation, expansion, or maintenance of a jail voting program. County elections officials can provide assistance including voter registration information, elections materials, and training. These officials can also help you track your registration efforts by reporting on the status of individual voter registration applications and whether the incarcerated person you helped to register actually voted.

We encourage you to bring this toolkit to the attention of your local county elections office and to discuss whether any of the models described in Section II could work for your organization and your county. A list of county elections offices and their contact information, as well as current jail voting policies and procedures of each county election office, can be found at letmevoteca.org. You can also call the Secretary of State's toll-free Voter Hotline at **1-800-345-VOTE** or visit sos.ca.gov/elections/voting-resources/ **county-elections-offices** for your county elections official's contact information.

B. County Sheriffs

Good communication with sheriff's department staff is one of your most important resources. As described above, in some counties the sheriff may allow groups to physically enter the jail to register people to vote, while others may choose to coordinate jail voting using primarily sheriff's department staff. We recommend you reach out to program staff at your local jail to ask how you coordinate with them or submit a proposal to help provide voter registration services. A list of county sheriff's departments and their contact information, as well as current jail voting

policies and procedures for county sheriff's departments, can be found at letmevoteca.org.

If your local sheriff's department does not respond to your questions about jail voting opportunities or you need to obtain updated jail policies, you may wish to request information from the department by submitting a Public Records Act request (PRA). However, we recommend being thoughtful about whether you need to submit a PRA or whether you could obtain the information you're seeking simply by asking sheriff's officials, as some offices may become defensive when they receive a PRA or may be concerned that you are preparing to file a lawsuit which could make it more difficult to develop a collaborative relationship.

C. Public Records Act Requests

The California Public Records Act is a state law that requires government records to be made available to the public upon request unless a specific exception applies to the records because, for instance, they contain personnel information about government employees or certain other private or sensitive information. PRAs can be used to obtain government records like sheriffs' or election officials' jail voting policies, jail visitation and mail procedures, or data about how many people voted or attempted to vote from your local jail during a certain time frame. While anyone has the right to request public records, PRAs are sometimes seen as a first step towards litigation so be cautious about whether a PRA – especially a very long or burdensome PRA – would be helpful in your situation.

A PRA can be in the form of a brief letter in which you explain that you are requesting certain public records and you describe the records or information you are seeking as clearly as possible. An agency is only responsible for providing records that are in their custody and they are not required to create new records to respond to your request. If you are only seeking records that cover a certain time frame, specify the particular time frame in your request. Government agencies may ask for reimbursement for reasonable costs of copying records, but nonprofit organizations may also ask that these fees be waived. The agency must respond to your request within ten (10) business days of receiving it or may request an additional 14-day extension in unusual circumstances, so be sure to keep track of when you expect to receive a response and follow up with the agency if needed. A sample PRA is provided below for your reference.

Sample PRA

[DATE]

[Sheriff or other recipient's name]

[County] Sheriff's Department

[Address]

[Address]

RE: Voting Policies and Procedures

Dear Sheriff _____:

On behalf of _____, I write to request records containing information regarding your policies and procedures whereby qualified voters in your custody are able to register and vote in local, state, and federal elections, pursuant to state and federal law elections codes. Accordingly, please consider this a formal request pursuant to the California Public Records Act (Government Code Section 6250 et seq.). Thank you in advance for your anticipated timely cooperation with this request.

Specifically, we request copies of the following:

1. All current policies and procedures governing the ability to register and vote of individuals in your custody, under your supervision, or released from your supervision, including but not limited to policies describing voting rights, responsibilities of staff to know voting rules and/or notify individuals of their voting rights, procedures for facilitating the registration of voters in your custody or under your supervision, procedures for providing and processing vote-by-mail ballots for people in your custody or under your supervision, any agreements and/or policies for coordination with local elections officials, and any agreements and/or policies related to the provision of voter services by community organizations or members of the public;
2. All notices and/or materials posted in your offices and/or in detention facilities under your supervision or control, and notices and/or materials provided to individuals in your custody or under your supervision advising them of their voting rights, including but not limited to copies of materials in languages other than English, voter registration materials, handbooks, and pamphlets;
3. The name and contact information of the current staff person(s) and/or department or other entity that directly supervises and/or administers any programs and policies in your office and/or in detention facilities under your supervision or control related to voting access for eligible individuals in your custody or under your supervision.

As used above, “policies and procedures” includes but is not limited to orders, general orders, codes, regulations, unit or special department orders, bulletins, memoranda, directives, and training materials. Also, we would appreciate being informed if these policies or procedures are currently being updated or revised.

The California Public Records Act requires a response within ten (10) business days. Please respond either by providing the requested information or providing a written response setting forth the specific legal authority on which you rely to justify the withholding of any requested record or any portion of any requested record. Cal. Govt. Code § 6255. The “burden of proof [is] on the proponent of non-disclosure to demonstrate a clear overbalance on the side of confidentiality.” See Michaelis, Montanari, & Johnson v. Superior Ct., 38 Cal. 4th 1065, 1071 (2006). Pursuant to § 6253(a), please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

Pursuant to Government code § 6253.1, a public agency may, in its discretion, determine to waive fees. See N. County Parents Org. v. Dep’t of Educ., 23 Cal. App. 4th 144, 146 (1994). We request that you waive any fees that would normally be applicable to a Public Records Act request. However, should you be unable to do so, [your organization]_____ will reimburse your agency for the “direct costs” of copying those records (if your agency elects to charge for copying) plus postage. See Cal. Gov’t Code § 6253(b) (only “direct costs of duplication” can be charged to the requesting party). If you anticipate that these costs will exceed \$20, please notify us of the cost prior to making the copies. No part of the information obtained will be distributed or sold for profit. If any records requested above are available in electronic format, please make them available in electronic format, as provided in Govt. Code § 6253.9.

If providing the records described above in electronic format, please email them to _____ . If providing the records described above via mail, please mail them to _____ . If we can provide any additional information that will expedite your processing of our request, please do not hesitate to contact us at _____ .

Sincerely,
[Your name]

D. Sample Voter Registration
Card - Orange County



California
Voter Registration/Pre-Registration Application
ORANGE COUNTY

Print clearly using blue or black ink. Use this form if you: (1) are a new voter, (2) are pre-registering to vote, (3) have changed your name, (4) have moved and need to update your voter registration address, or (5) want to change your political party preference. You can also register to vote online at RegisterToVote.ca.gov.

1 Qualifications

I am a U.S. citizen and resident of California Yes No If "No," you CANNOT register.

I am 18 or older Yes No Only choose one.

I am 16 or 17 and want to pre-register Yes No

Your legal name

Mr. Ms. Mrs. Miss (optional)

2 First _____ Middle _____

Last (including suffix, such as Jr., Sr., III) _____

Identification

If you do not have a CA driver license or CA ID card, list the last 4 numbers of your Social Security Number (SSN), if you have one.

3 Date of birth /

California driver license or ID card # _____ SSN (last 4 numbers) XXX-XX-____

U.S. state or foreign country of birth _____

The address where you live

4 Home address _____ Apt or Unit # _____

City _____ State CA Zip _____ California county _____

Do not use a P.O. Box # _____

If you do not have a street address, describe where you live including cross streets, Route, N, S, E, W, etc. _____

The address where you receive mail

5 Mailing address – if different from above or a P.O. Box # _____

Skip if same as address above.

City _____ State _____ Zip _____ Foreign country _____

Registration history

6 First name _____ Middle initial _____ Last name _____

Previous address _____ City _____

State _____ Zip _____ Previous county _____ Previous political party preference (if any) _____

Vote-by-mail

7 I want to get my ballot by mail before each election. *If "Yes," you will get your ballot by mail before each election but, if you want to vote in person, you must turn in your ballot or vote a provisional ballot.

Yes* No

Political party preference

8 I want to choose a political party preference

American Independent Party

Democratic Party

Green Party

Libertarian Party

Peace and Freedom Party

Republican Party

Other (specify): _____

I do not want to choose a political party preference

No Party / None

Optional voter information

9 Email (optional) _____

() _____

Phone number (optional) _____

I would like to receive election information by text message.

My language preference for receiving election materials is:

English Spanish Chinese Hindi Khmer

Español 中文 印地 高棉

Korean Japanese Tagalog Thai Vietnamese

한국어 日本語 타갈로그 ไทย Việt ngữ

I want voting materials in an accessible format.

My ethnicity/race is: _____

10 Affidavit

X I swear or affirm that: I am a U.S. citizen and a resident of California and at least 16 years old. I am not currently in state or federal prison or on parole for the conviction of a felony. I am not currently found mentally incompetent to vote by a court. I understand that it is a crime to intentionally provide incorrect information on this form. I declare under penalty of perjury under the laws of the State of California that the information on this form is true and correct.

Signature _____ Date Signed _____ Month _____ Day _____ Year _____

30 AA 900001 200001

VOTE-BY-MAIL BALLOT APPLICATION FOR THE JUNE 5, 2018 STATEWIDE DIRECT PRIMARY ELECTION

The application must be received by the Orange County Registrar of Voters no later than MAY 29, 2018

1. PRINT NAME: _____ 2. DATE OF BIRTH: ____/____/____ (mo/day/yr)

First Name _____ Middle Name or Initial _____ Last Name _____

3. RESIDENCE ADDRESS IN ORANGE COUNTY (please print) **DO NOT USE APPLICATION FOR ADDRESS CHANGE**

Number and Street – as registered (P.O. Box, Rural Route, etc., not acceptable) _____ (Designate N, S, E, W if used)

City _____ State _____ Zip Code _____

4. TELEPHONE NUMBER: _____ Daytime _____ Evening _____

5. PRINT MAILING ADDRESS FOR BALLOT (IF DIFFERENT FROM ABOVE):
NOTE: Organizations distributing this form may not pre-print mailing address information.

Number and Street/P.O. Box _____ (Designate N, S, E, W if used)

City _____ U.S. State or Foreign Country _____ Zip Code _____

6. THIS APPLICATION WILL NOT BE ACCEPTED WITHOUT THE PROPER SIGNATURE OF THE APPLICANT.

Signature _____ Date _____
WARNING: Perjury is punishable by imprisonment in state prison for 2, 3, or 4 years. (Section 126 of CA Penal Code)

THIS FORM WAS PROVIDED BY: _____

IMPORTANT: Organizations providing this form must enter their name, address, and telephone number.

VOTE-BY-MAIL BALLOT APPLICATION FOR THE JUNE 5, 2018 STATEWIDE DIRECT PRIMARY ELECTION

The application must be received by the Orange County Registrar of Voters no later than MAY 29, 2018

1. PRINT NAME: _____ 2. DATE OF BIRTH: ____/____/____ (mo/day/yr)

First Name _____ Middle Name or Initial _____ Last Name _____

3. RESIDENCE ADDRESS IN ORANGE COUNTY (please print) **DO NOT USE APPLICATION FOR ADDRESS CHANGE**

Number and Street – as registered (P.O. Box, Rural Route, etc., not acceptable) _____ (Designate N, S, E, W if used)

City _____ State _____ Zip Code _____

4. TELEPHONE NUMBER: _____ Daytime _____ Evening _____

5. PRINT MAILING ADDRESS FOR BALLOT (IF DIFFERENT FROM ABOVE):
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Number and Street/P.O. Box _____ (Designate N, S, E, W if used)

City _____ U.S. State or Foreign Country _____ Zip Code _____

6. THIS APPLICATION WILL NOT BE ACCEPTED WITHOUT THE PROPER SIGNATURE OF THE APPLICANT.

Signature _____ Date _____
WARNING: Perjury is punishable by imprisonment in state prison for 2, 3, or 4 years. (Section 126 of CA Penal Code)

THIS FORM WAS PROVIDED BY: _____

IMPORTANT: Organizations providing this form must enter their name, address, and telephone number.

NOTICE: You have the legal right to mail or deliver this application directly to the elections official in the county where you reside. You may:

Mail to: Orange County Registrar of Voters
 PO Box 11298, Santa Ana, CA 92711-9990
 (714) 560-4572
Fax to: _____
Deliver to: 1300 S. Grand Ave., Bldg. C, Santa Ana
Any questions, call (714) 567-7600

PERMANENT VOTE-BY-MAIL VOTER
 To become a Permanent Vote-by-Mail Voter, sign here:

A vote-by-mail ballot will automatically be sent to you for future elections. Failure to return an executed vote-by-mail ballot in 4 consecutive statewide general elections will cancel your Permanent Vote-by-Mail Voter status and you will need to reapply **Elections Code §§ 3201, 3206**. Any questions, call (714) 567-7600.

The format used on this application must be used by **ALL** individuals, organizations and groups that distribute vote-by-mail ballot applications (**Elections Code § 3007**). Failure to conform to this format may result in criminal prosecution (**Elections Code § 18402**).

NOTICE: You have the legal right to mail or deliver this application directly to the local elections official of the county where you reside. You may:

Mail to: Orange County Registrar of Voters
 PO Box 11298, Santa Ana, CA 92711-9990
 (714) 560-4572
Fax to: _____
Deliver to: 1300 S. Grand Ave., Bldg. C, Santa Ana
Any questions, call (714) 567-7600

PERMANENT VOTE-BY-MAIL VOTER
 To become a Permanent Vote-by-Mail Voter, sign here:

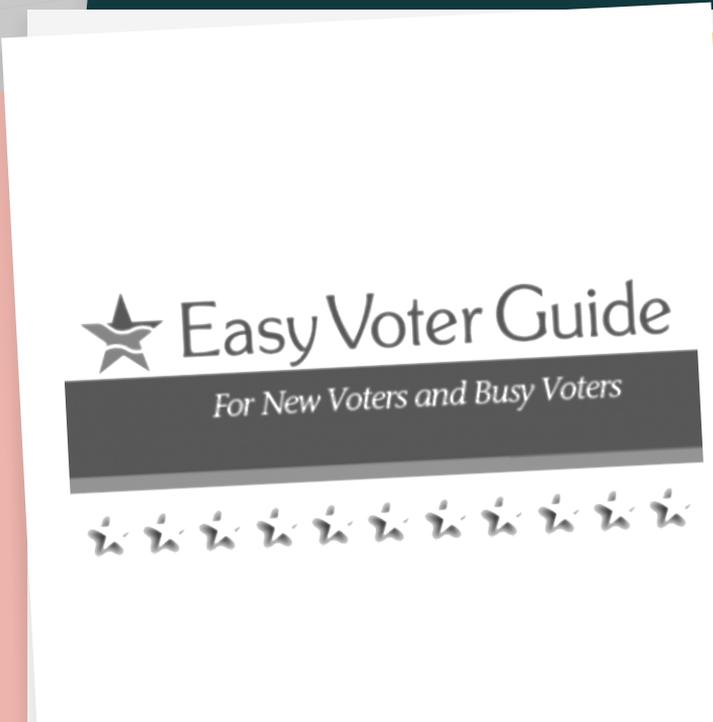
A vote-by-mail ballot will automatically be sent to you for future elections. Failure to return an executed vote-by-mail ballot in 4 consecutive statewide general elections will cancel your Permanent Vote-by-Mail Voter status and you will need to reapply **Elections Code §§ 3201, 3206**. Any questions, call (714) 567-7600.

The format used on this application must be used by **ALL** individuals, organizations and groups that distribute vote-by-mail ballot applications (**Elections Code § 3007**). Failure to conform to this format may result in criminal prosecution (**Elections Code § 18402**).

F. The Easy Voter Guide

The Easy Voter Guide is a collaboration between the League of Women Voters of California and the State Library. It's an online and paper publication containing clear explanations of registering, voting, and what to expect in the election. Designed for new and busy voters, it delivers unbiased, straightforward, plain-language summaries of statewide ballot measures. In order to make sure the content is suitable for voters at all reading levels, the guide is quality tested in adult learning classes. It is available in five languages (English, Spanish, Chinese, Vietnamese, and Korean). If print copies are ordered from the website, **easyvoterguide.org**, before an election, staples will have to be removed before being sent into jails.

Voters can also learn more about what is on their ballot with Voter's Edge, a website hosted by MapLight and the League of Women Voters of California. With Voter's Edge, voters can enter in their address and get detailed information about all of the candidates and measures on their ballot. The site also has detailed FAQs about when, where, and how to vote, and is available in Spanish and English. People in county jails often have limited access to computers. However, if you are planning an event where computers will be available, make sure you coordinate with the jail so that Voter's Edge is available online. Visit the site by going to **votersedge.org**.



★ Easy Voter Guide

For New Voters and Busy Voters



REFERENCES

- ¹ Christopher Uggen et al., *The Sentencing Project, 6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016* 6 (2016). In 2016, there were about 72,200 people in county jails across the country who were denied the right to vote because of their conviction, out of a total nationwide jail population of about 612,000. Id.; Wendy Sawyer & Peter Wagner, Prison Policy Initiative, *Mass Incarceration: The Whole Pie 2019* (2019).
- ² Alexi Jones, Prison Policy Initiative, *Correctional Control 2018: Incarceration and supervision by state* (2018).
- ³ Erika Wood and Rachel Bloom, ACLU and Brennan Center for Justice, *De Facto Disenfranchisement* (2008).
- ⁴ American Civil Liberties Union or League of Women Voters offices in your state may be able to help you find relevant jail voting rules where you live. Visit aclu.org or lwv.org to find local contact information.
- ⁵ Erin Kelly, Brennan Center for Justice, *Racism & Felony Disenfranchisement: An Intertwined History* (2017).
- ⁶ Jeff Manza & Christopher Uggen, *Locked Out – Felon Disenfranchisement and American Democracy* (2006).
- ⁷ California was the only former free state to initially reject the 14th Amendment, which extended citizenship to all persons born or naturalized in the United States. It took California until 1959 to ratify the 14th Amendment and until 1962 to ratify the 15th Amendment. See, e.g., Kevin Wait, *Early California lawmakers also preached #resistance – but against immigration*, L.A. Times, Aug. 3, 2018.
- ⁸ Cal. Const. art. II, § 4.
- ⁹ Uggen et al., *supra* note i, at 3.
- ¹⁰ As of December 2017, 21.3% of people incarcerated in California’s state prisons and 25.7% of people on state parole identified as white. California Department of Corrections and Rehabilitation, CDCR Offender Data Points (December 2017). See also Leah Sakala, Prison Policy Initiative, *Breaking Down Mass Incarceration in the 2010 Census: State-by-State Incarceration Rates by Race/Ethnicity* (2014).
- ¹¹ Guy Padraic Hamilton-Smith and Matt Vogel, *The Violence of Voicelessness: The Impact of Felony Disenfranchisement on Recidivism*, 22 *La Raza L.J.* 407 (2015).
- ¹² Nev. AB 431; Colo. HB19-1266. In 2019, New Jersey also passed a law restoring voting rights to people on probation or parole. N.J. A 5823.
- ¹³ Despite Amendment 4’s approval by voters, however, most people with felony records remain disenfranchised in Florida today. In 2019, the Florida legislature passed a bill that requires would-be voters to pay all fines and fees attached to their felony convictions before they can cast their ballot. As of the publication of this toolkit, that validity of that bill involved in active litigation. See Arian Campo-Flores and Jon Kamp, *Florida Voted to Give 1.4 Million Felons the Right to Vote. It Hasn’t Gone Smoothly*, Wall Street Journal, Feb. 8, 2020.
- ¹⁴ Morgan McLeod, *The Sentencing Project, Expanding the Vote: Two Decades of Felony Disenfranchisement Reform* (2018).
- ¹⁵ *League of Women Voters of California v. McPherson*, 145 Cal.App.4th 1469 (2006) (the California Constitution’s provision prohibiting voting for people “imprisoned or on parole for the conviction of a felony” does not disenfranchise people confined in local jails as a condition of felony probation); *Scott v. Bowen*, No. RG14-712570, (Alameda Super. Ct. May 7, 2014) (people on Mandatory Supervision and Post-Release Community Supervision are not

subject to the California Constitution and Elections Code’s prohibitions on voting for people on parole).

- ¹⁶ Cal. AB 2466 (Weber, 2016) (clarifying that people who are incarcerated in county jails for a “realignment” felony sentence are not subject to the California Constitution and Elections Code’s prohibitions on voting for people who are “imprisoned”).
- ¹⁷ Sometimes referred to as a “realignment” or “AB 109” felony.
- ¹⁸ People in California also may not vote when they are currently found mentally incompetent to vote.
- ¹⁹ In California, otherwise-eligible people who are in federal prison while they are awaiting trial may vote.
- ²⁰ This includes individuals who have been sentenced to state prison but are awaiting transfer in a county jail. People who are housed in a county jail while serving a state prison sentence because they are awaiting trial for another crime, or because of a contract between the California Department of Corrections and Rehabilitation and the county are also ineligible to vote. Additionally, people who are in county jail because of a parole violation may not vote. These groups are the only otherwise-eligible adults in county jails who cannot vote in California because of a conviction.
- ²¹ Note that some of these terms may have different meanings in other states or contexts. Legal definitions in this toolkit are based on California law.
- ²² For example, in Orange County organizations are able to access a complete list of people incarcerated in the county jail system online (<http://ws.ocsd.org/Whoisinjail/Search.aspx>). In Los Angeles, organizations must have some identifying information in order to locate an incarcerated person on their online system (https://app5.lasd.org/iic/ajis_search.cfm).
- ²³ Under state regulations, jails are required to “develop written policies and procedures whereby the county registrar of voters allows qualified voters to vote in local, state, and federal elections”. Cal. Code. Regs. tit. 15, § 1071.
- ²⁴ *Thornburgh v. Abbott*, 490 U.S. 401, 413 (1989). See also *Berry v. Brady*, 192 F.3d 504 (1999).
- ²⁵ The complete LASD criteria list and application details can be found at <http://pars.lasd.org/Viewer/Manuals/12782/Content/12902?showHistorical=True>. If you or your organization’s volunteers are denied access to a jail, we recommend that you request an explanation from the jail and appeal the decision.
- ²⁶ Cal. Elec. Code §§ 2158(b), 18107.
- ²⁷ *Id.* at §§ 18103-18104.
- ²⁸ *Id.* at §§ 18576-18577.
- ²⁹ *Id.* at § 2158(b).
- ³⁰ See *id.* at § 2157.2; Cal. Code Regs. tit. 2, §§ 19003-19004.
- ³¹ See 52 U.S.C. 21083; Cal. Elec. Code § 2196; Cal. Code Regs. tit. 2, § 20107.
- ³² *Id.* at §§ 3009, 3019.
- ³³ To learn more about what kinds of records are exempted from disclosure under the Public Records Act, see Cal. Gov. Code § 6254-6255.



ACLU
NorCal

ACLU
SoCal

LWV

LEAGUE OF WOMEN VOTERS'
OF CALIFORNIA
EDUCATION FUND

