

Discretionary Disenfranchisement: The Case of Legal Financial Obligations

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ABSTRACT

Conditioning voting rights on the payment of legal financial obligations (LFOs) may be unconstitutional if there are no exceptions for indigency. Appellate courts, though, generally have upheld felon-disenfranchisement laws that withhold voting rights until all fees, fines, and restitution are paid in full. These decisions, however, have been made with limited evidence available about the type, burden, and disparate impact of criminal debt. We address this by detailing who owes LFOs, how much they owe, and for what purpose using representative statewide samples in Alabama. The median amount of LFOs assessed to discharged felons across all of their criminal convictions is \$3,956, more than half of which stems from court fees. As a result, most ex-felons remain disenfranchised after completing their sentences. People who are disproportionately indigent—blacks and those utilizing a public defender—are even less likely to be eligible to restore their voting rights.

1. INTRODUCTION

Over the course of the 20th century, the Supreme Court limited states' ability to restrict citizens' eligibility to vote (Keyssar 2000). This effort in-

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cluded a series of 1960s opinions in which the Court invalidated the poll tax as a violation of the Fourteenth and Twenty-fourth Amendments. The majority opinion in *Harper v. Virginia State Board of Elections* (383 U.S. 663, 666 [1966]) struck down the state's \$1.50 poll tax—\$1 of which went to the public schools, the rest to the county general fund—stating that “voter qualifications have no relation to wealth nor to paying or not paying this or any other tax.”

The increased constitutional protection of voting rights, however, has not applied to people convicted of crimes (Manza and Uggen 2006). States have broad, and increasingly unique, autonomy to determine which convicted defendants are stripped of their voting rights and the process by which these rights can be restored. While a majority of current disenfranchisement laws share broad outlines—felonies are disenfranchising, and voting rights are restored at the end of prison, probation, or parole—nine states condition the restoration of the right to vote on the payment of legal financial obligations (LFOs), which include court costs, fines, and restitution to victims (Fredericksen and Lassiter 2016).¹ This requirement appears to at least meet the common understanding of a poll tax: citizens who want to vote are required to pay the state a specified amount of money before they are eligible to cast a ballot, and this money is used to fund government programs (Harris 2016).

Such criminal-disenfranchisement policies, however, routinely pass constitutional muster (Volokh 2002). Without evidence of an explicitly discriminatory motivation, criminal-disenfranchisement laws have survived a litany of legal challenges, largely because courts have considered the state laws under a deferential rational-basis review. Although *Wesberry v. Sanders* (376 U.S. 1 [1964]) established that voting is a fundamental right whose abridgment would warrant strict scrutiny, courts have generally made a distinction between the right to vote and the restoration of the right to vote to felons or ex-felons. While conditioning the restoration of voting rights on the payment of LFOs might be a poll tax, it is a constitutional poll tax.

Although courts continually hear objections about tying LFOs to the right to vote, such objections are generally dismissed, at least in part because of the limited, anecdotal evidence available about the nature of LFO assessment and payback. A fragmented criminal justice system,

1. This paper refers to policies as of the 2016 general election. The nine states are Alabama, Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Iowa, and Tennessee.

spread across thousands of counties and other judicial districts, makes it difficult for those challenging felon-disenfranchisement laws to compile systematic data on the type, burden, and disparate impact of LFOs. We undertake a massive data-collection effort to remedy this by compiling electronic court records, state corrections data, and administrative voting-rights decisions to estimate a number of such quantities of interest for representative, statewide samples in Alabama and Tennessee. Our empirical findings are relevant for assessing, and perhaps revising, current jurisprudence.

While most previous legal challenges focused on cases in which ex-felons' voting rights were conditioned on criminal fines and restitution, recent scholarship highlights the growth of offender-funded justice through the assessment of fees (for example, Beckett and Harris 2011; Logan and Wright 2014; Katzenstein and Waller 2015). These LFOs, the most common of which is a docket fee, resemble a poll tax in both their uniform application to almost all defendants and their prescribed use in support of government programs. Criminal justice agencies often use these fees to reimburse themselves for the costs of operation and maintenance. Conditioning the restoration of the right to vote on such fees might pose a different set of legal questions than fines or restitution because they are assessed without respect to offenders' actions, fund programs wholly disconnected from offenders' crimes of conviction, and can vary widely from courtroom to courtroom, even in the same state. But the extent of these fees remains unknown. To address this, we construct a data set tracking individuals' criminal histories in Alabama, including the specific LFOs assessed and paid back in each court case, going as far back as the early 1990s. We show that the median amount of LFOs assessed to discharged felons in Alabama, across all of their criminal convictions, is \$3,956 and that more than half of individuals' total criminal debt stems from court fees.

Policies like Alabama's, which distinguish among offenders on the basis of wealth, may also pay insufficient attention to indigency. Although less-wealthy individuals are not a suspect class, conditioning the restoration of the right to vote on LFOs without evaluating whether someone is truly unable to pay might not even satisfy a rational basis test. While we cannot observe whether a defendant is indigent in our data set of criminal convictions, we can observe whether they were provided a public defender. We find a strong, and statistically significant, correlation between the probability of having an outstanding LFO balance and the

use of a public defender, which suggests that current policy may be disenfranchising a number of people who cannot afford, rather than refuse, to buy back their right to vote.

Criminal-disenfranchisement laws are rarely subject to heightened scrutiny, but neither the judges nor those challenging the laws have yet had data available to them on the incidence of LFOs by race, which is a suspect class. Using the same individual-level data set on court cases, we find that black defendants are significantly more likely to be ineligible to restore their voting rights because of LFOs.

We find the same disparate impact—by both class and race—in applications to restore voting rights in Alabama. We find similar racial differences in applications to restore voting rights in Tennessee, which we present as a robustness check in the online appendix. Black ex-felons in the state are more likely to have their voting-rights applications denied because of outstanding child support, a particular type of legal debt that is tied to voting rights only in Tennessee. Together, these findings suggest that LFOs are a general threat to racial equality above and beyond the forces of mass incarceration.

2. LEGAL FINANCIAL OBLIGATIONS

An LFO refers to any court-ordered monetary sanction, including victim restitution, criminal fines, and court fees (Ruback and Clark 2011). Defendants, for example, might be ordered to pay restitution to compensate a victim or be fined as a penalty for a particular crime. Defendants also often are assessed a vast array of fees to help defray the cost of their prosecution to various entities in the criminal justice system, including the jails that hold them, the prosecutors who charge them, the public defenders who represent them, and the courts that hear their cases. In family court, defendants may be ordered to pay child support, which is also considered an LFO.

Unfortunately, we know more about the typology of LFOs than the nature of them. The extant data include no national, or even state, database on incidence or payback, and the limited data available on the aggregate assessments by jurisdiction are only sometimes broken down by the form of LFO. Thus, we know little about what LFOs are used to fund, the burden that LFOs place on people convicted of crimes, and how this burden varies over different groups of people.

When thinking about how conditioning the restoration of the right to vote on legal financial obligations might operate as a poll tax (Simmons 2003; Cammett 2012), one key aspect is where the money from any collections might go. A poll tax is generally “laid upon persons . . . to raise money for the support of government” (*Johnson v. Bredesen*, 624 F.3d 742 [6th. Cir. 2010]). Restitution does not fit this description, as the money is transferred from offenders to victims, but restitution is not assessed in many cases. Fees, on the other hand, are assessed in nearly all cases and can be used to fund broad government programs. For example, Greenberg, Meredith, and Morse (2016) report that Alabama counties assess defendants fees that go toward such things as pay raises for law enforcement and county employees, a local historical commission, and county general funds.

When assessing the potentially disenfranchising nature of a poll tax, a key consideration is the burden that the tax places on people who wish to vote. But little is known about the magnitude of LFOs. The only national data available—from the Survey of Inmates in State and Federal Correctional Facilities—simply asks inmates whether they were assessed any fines or fees. These data suggest that the share of imprisoned felons who were assessed fines or fees increased from 25 percent in 1991 to 66 percent in 2004 (Harris, Evans, and Beckett 2010).

The most systematic evidence of the magnitude of the LFO assessment comes from two studies that sample state court records to construct the distribution of LFOs assessed over cases. Harris, Evans, and Beckett (2010) collect data on total LFOs assessed in a census of 3,366 cases with a felony conviction that were sentenced in Washington State during the first 2 months of 2004. They find that the median LFO assessment over that time period was \$1,347. Similarly, Greenberg, Meredith, and Morse (2016) collect data on total LFOs assessed in a sample of 3,650 cases with a felony conviction that were initiated in Alabama during 1995, 2000, and 2005–11. They report that the median amount of LFOs stemming from a case with a felony conviction doubled in the state from just under \$1,000 in 1995 to about \$2,000 in 2005.

One issue with interpreting these magnitudes is that individuals can accumulate LFOs from multiple cases. To get an estimate of the total LFO burden that felons accumulate over all of their cases, Harris, Evans, and Beckett also collected a complete court history, including all LFOs assessed and paid, for a random subset of 500 defendants whose cases were included in their original sample. They found that the median lifetime

LFO assessment to these individuals was \$7,234.² To put this in context, using the National Longitudinal Survey of Youth, Western (2006) estimates that the average income of the formerly incarcerated population was about \$9,000 in 2004.³ A convenience survey using a sample of convicted felons in Alabama reports a similar mean income (Cook 2014). Thus, accumulating \$7,000 in LFOs, as in Washington State, means that the median ex-felon owes about 75 percent of his or her annual income to the state.

Given this high criminal-debt-to-income ratio, we expect that many ex-felons will struggle to be able to pay off these debts. For example, Harris, Evans, and Beckett (2010) estimate that people convicted of a felony in 2004 still owed 77 percent of their total lifetime LFO assessments in 2008. And as Greenberg, Meredith, and Morse (2016) discuss, because most states give little consideration to ability to pay when assessing LFOs, the struggle to pay off debts is likely to be particularly acute among low-wealth defendants. A recent study in Allegheny County, Pennsylvania, reports some evidence of this, finding a positive association between the probability of recidivism and the amount owed in LFOs among a cohort of juvenile defendants, many of whom are hampered by their lack of employment prospects (Piquero and Jennings 2017). Given the strong link between race and wealth in America (Conley 1999), we also expect that these debts will disproportionately burden black ex-felons.⁴

3. CRIMINAL DISENFRANCHISEMENT

Disenfranchisement of criminals (hereafter, criminal disenfranchisement) has deep, often racist, roots in the United States (Behrens, Uggen, and Manza 2003), but its impact was long muted, because of both the relatively low and stable incarceration rate through the middle of the 20th

2. It is unclear whether these statistics apply to the population of people convicted of a felony in January or February 2004, given that individuals who had multiple felony cases during the first 2 months of 2004 would be more likely to be selected into Harris, Evans, and Beckett's sample than would individuals with a single case.

3. This may be because the mark of a criminal record makes it more difficult to navigate the labor market (Pager 2007).

4. Harris, Evans, and Beckett (2010) find that the median black person owed 72 percent of his or her lifetime LFO assessments, which suggests that blacks were paying off their debts at a faster rate than nonblacks. However, Harris, Evans, and Beckett observe only 64 blacks in their sample, which limits their statistical power when making this comparison.

century and states' wide latitude to restrict the franchise through other means. A tandem of a substantial poll tax, lengthy residency requirements, and literacy tests were often used to suppress the political power of the poor and blacks alike through the early part of the 20th century (Keyssar 2000). By the mid-1960s, however, a combination of congressional acts and Supreme Court decisions not only eliminated these electoral devices but also increased the scrutiny surrounding the right to vote when it involved protected classes.

People convicted of crimes, however, were not included in these expanded constitutional protections. Less than a decade after striking down the poll tax, the Court found in *Richardson v. Ramirez* (418 U.S. 24 [1974]) that felons do not have a fundamental right to vote. The Court concluded that the Fourteenth Amendment contains an "affirmative sanction" (418 U.S. 54) for criminal disenfranchisement, relying on a narrow and literal reading of section 2, which obliquely permits disenfranchisement "for participation in rebellion, or other crime." Around this time, the incarceration rate began its steady fivefold climb, and, by 2010, nearly 6 million citizens were disenfranchised because of a criminal conviction (Uggen, Shannon, and Manza 2012). The Fourteenth Amendment, intended to expand voting rights to blacks, instead became the ironic constitutional basis (Chin 2004) for policies that Uggen, Shannon, and Manza (2012) estimate disenfranchised more than 7 percent of the black voting-age population in 2010.

We refer to criminal disenfranchisement as discretionary disenfranchisement in our title to underscore how, unlike most contemporary voting qualifications, each state can decide which crimes are disenfranchising, specify the length of disenfranchisement, and institute additional procedures in order for voting rights to be restored. We use the term "discretionary disenfranchisement" in the spirit of the civil rights lawyer Michelle Alexander's claim that "once a person is labeled a felon, he or she is ushered into a parallel universe in which discrimination, stigma, and exclusion are perfectly legal" (Alexander 2012, p. 94). Many states use the discretion allowed under *Ramirez* to require that people convicted of crimes pay all outstanding LFOs before they can regain the right to vote (Fredericksen and Lassiter 2016). Nine states do so explicitly. In these states, ex-felons who have completed their terms of supervision must have no outstanding LFOs in order for their voting rights to be restored, although the form of the LFOs in question varies. Twenty-one other

states do so implicitly. In these states, people on probation cannot vote, and probation can be extended because of nonpayment of LFOs.

The practice of directly tying voting rights to the payment of LFOs has been challenged as a violation of the Eighth Amendment's ban on excessive fines, the Fourteenth Amendment's guarantee of equal protection, and the Twenty-fourth Amendment's prohibition of a poll tax. But these state policies have survived, largely because appellate courts, following *Ramirez*, evaluated the state laws under a deferential rational basis review rather than with strict scrutiny. Although the right to vote is considered a fundamental right, whose abridgment would warrant strict scrutiny, courts generally have made a distinction between citizens' right to vote and offenders' or ex-offenders' restoration of the right to vote.

Courts previously have rejected these Twenty-fourth Amendment claims, at least in part, because the form of LFOs being challenged were not considered similar enough to a tax. For example, the majority opinion in *Johnson v. Bredesen* (624 F.3d 742, 751 [6th Cir. 2010]) concluded that "even if the Twenty-fourth Amendment applies, Tennessee's re-enfranchisement statute does not violate it because the restitution and child-support payment provisions fail to qualify as the sort of taxes the Amendment seeks to prohibit." Similarly, the majority opinions in *Harvey v. Brewer* (605 F.3d 1067 [9th Cir. 2010]) and *Johnson v. Bush* (214 F. Supp. 2d 1333 [S.D. Fla. 2002]) found that Arizona and Florida, respectively, were not violating the Twenty-fourth Amendment by conditioning ex-felons' restoration of voting rights on the full payment of fines and restitution.

While *Howard v. Gilmore* (205 F.3d 1333 [4th Cir. 2000]) upheld Virginia's \$10 application fee to request the restoration of voting rights, previous case law has not addressed whether ex-felons' voting rights can be conditioned on the payment of court fees, which we show are orders of magnitude larger. As we discussed in Section 2, court fees more closely resemble a tax than these other LFOs, both in how they are structured and in how they are distributed. In Alabama, for example, docket fees are applied uniformly without consideration of the crime of conviction. And they can be used to fund a general government service, like a county historical commission (Greenberg, Meredith, and Morse 2016, p. 1113). Thus, knowledge of the share of LFOs that are assessed for fees, as opposed to fines, restitution, or child support, may be useful when assessing Twenty-fourth Amendment challenges to tying LFOs to voting rights.

Courts also have suggested that evidence of indigency may be relevant

to assessing the constitutionality of tying voting rights to the payment of LFOs. The Supreme Court dealt with a similar issue in the 1970s when considering the case of an Illinois man whose sentence was extended because of his nonpayment of LFOs. In *Williams v. Illinois* (399 U.S. 235 [1970]), the Court ruled that courts must assess a defendant's indigency and distinguish between those who can and cannot afford to pay. But most states that extend offenders' period of disenfranchisement because of outstanding LFOs, either directly or indirectly, fail to make any such consideration. Although indigency was not relevant in *Howard* because the number of people who truly cannot afford to pay a one-time assessment of \$10 is small, the majority opinion in *Harvey* noted that "perhaps withholding voting rights from those who are truly unable to pay their [LFOs] due to indigency would not pass this rational basis test" (605 F.3d 1080).

Criminal-disenfranchisement laws also may be subject to more scrutiny than a rational basis review if they involve suspect classifications. Laws without accommodations for indigency are likely to have a disparate impact on the poor, and conditioning the restoration of the right to vote on legal financial obligations makes a distinction among offenders on the basis of wealth. While the plaintiffs in *Johnson v. Bredesen* noted this, it did not heighten the level of scrutiny under which an equal protection claim was considered because less-wealthy individuals are not a protected class. The link between race and wealth in the United States is so durable that a law that has a disparate impact on less-wealthy individuals also likely has a disparate impact on African Americans, who are a protected class. However, this link has yet to be investigated empirically in the case of LFOs.

4. SELECTION OF CASES

We focus primarily on how LFOs affect the ability of ex-felons in Alabama to restore their voting rights for substantive and data-availability reasons. Alabama is one of nine states that explicitly require that LFOs be paid before ex-felons' voting rights can be restored (Fredericksen and Lassiter 2016). It is also a state in which the disenfranchisement of ex-felons could be most politically consequential (Manza and Uggen 2006). Uggen, Shannon, and Manza (2012) estimate that about 7 percent of the voting-age population in Alabama is disenfranchised because of a criminal record. However, it is unknown what share of this population is dis-

enfranchised because of LFOs. That is, individuals have satisfied all other criteria necessary to be eligible to restore their voting rights except for the payment of LFOs. Finally, given that one of the primary goals of this paper is to study disparate impact, it is essential that we observe both the race and a proxy for the wealth of people who apply to restore their voting rights. Although we found no state where we could directly observe these variables, in Alabama we were able to gain access to multiple data sets that—once combined—allow us to observe this information. We also perform a less comprehensive analysis of Tennessee, which requires child support to be paid, in addition to fines, fees, and restitution, before an ex-felon is eligible to restore his or her voting rights.

4.1. Alabama Law

Much of the basic framework of disenfranchisement in Alabama was established by the constitution of 1901. Article VIII, section 182, of the constitution states that “No person convicted of a felony involving moral turpitude, or who is mentally incompetent, shall be qualified to vote until restoration of civil and political rights or removal of disability.”

The meaning of moral turpitude has shifted over time—to be both more and less restrictive—depending on the political climate. The constitution of 1901 specified 23 crimes of moral turpitude, which include some misdemeanors, like adultery and worthless checks, in addition to a number of felonies. Noting that the law “would not have been adopted by the convention or ratified by the electorate in the absence of the racially discriminatory motivation,” the Supreme Court eventually ruled in *Hunter v. Underwood* (471 U.S. 222 [1985]) that only felonies of moral turpitude could be disenfranchising.⁵ The Alabama state attorney general has periodically issued opinions outlining crimes not included on this original list that he believes involve moral turpitude—and thus also result in the loss of voting rights. These new crimes encompass a wider array of offenses, including aggravated assault, theft, and sale of marijuana. The attorney general also confirms that several felonies—assault, aiding prisoners to escape, doing business without a license, driving under the influence, possession of marijuana, and violation of liquor laws—are not crimes of moral turpitude but says that the “office cannot provide an exhaustive list of every felony involving moral turpitude” (Ala. Op. Att’y

5. Amendment 579 subsequently changed the state constitution in 1996 to its current language.

Gen. No. 2005-092 [March 18, 2005], 2005 WL 1121853).⁶ In practice, the Board of Pardons and Paroles treats all felonies as crimes of moral turpitude unless they are explicitly identified otherwise.

Historically, the only way someone convicted of a crime of moral turpitude could restore his or her voting rights was to receive a full pardon from the Board of Pardons and Paroles. In 2003, Alabama supplemented the traditional pardon process with a Certificate of Eligibility to Register to Vote. This streamlined system is available to restore voting rights to a majority of disenfranchised ex-felons, although the state legislature has specified 14 statutory offenses—ranging from murder to a litany of sex crimes—for which a convicted felon must receive a full pardon to restore his or her voting rights. An ex-felon who is eligible for a Certificate of Eligibility to Register to Vote must apply to the board to receive the certificate. For the Board of Pardons and Paroles to grant a certificate, a person must complete the entire sentence, including any probation or parole; have no pending felony charges; and have paid all fines, court costs, fees, and victim restitution ordered by the sentencing court. Although traffic cases are not disenfranchising by themselves, these LFOs are also considered in the restoration process. Unlike with the pardon process, there is little discretion in the awarding of a Certificate of Eligibility to Register to Vote—someone is awarded a certificate only if he or she meets the specified criteria.

4.2. Tennessee Law

Tennessee, like Alabama, requires that fees, fines, and restitution be paid before ex-felons' voting rights can be restored, but it also requires that applicants be current on the payment of any child support, another form of legal debt typically imposed in family court. An agent of the court prevents ex-felons who have not paid their fees, fines, and restitution from applying, effectively censoring their application, though this agent does not check the status of child support. Thus, we should observe only applicants who have paid their fees, fines, and restitution, some of whom will have outstanding child support obligations and will be denied. Others will not have child-support obligations or will be current on their support and will be approved, provided they meet the other requirements.

6. For a list of felonies and whether they are disenfranchising in Alabama, see the online appendix.

5. DATA

Electronic court records, state corrections data, and administrative voting-rights decisions are all examples of a wave of fine-grained public information that has become available to legal scholars.⁷ These records offer several advantages—they are often universal in their scope, relatively unobtrusive, and quite detailed—but they may be as difficult to obtain as they are useful to employ. In this section, we describe the case record and voting-rights-restoration application data that we were able to collect in Alabama.

5.1. Case Record Data

We collected Alabama court records through the online interface Alacourt (see the online appendix for examples). Alacourt is a relatively comprehensive database of case records for all nonmunicipal court cases in Alabama going back to at least the mid-1990s. Although many people who are disenfranchised in Alabama never serve time in a prison or other correctional facility, most have a record of being convicted of a felony in a circuit court, which has jurisdiction over all felony criminal prosecutions.⁸

A typical court record in Alacourt includes the defendant's full name, date of birth, gender, race, and whether he or she used a public defender (hereafter, the public defender status).⁹ Each case record also lists the criminal charge and the court action, which we can use to determine if the defendant has lost the right to vote. Most important for this project, each record includes the fines, fees, and restitution assessed to the defendant, including a description of each financial obligation, the amount due, the amount paid, and the remaining balance. Although Alacourt records identify the reason for each assessment with only an administrative code, we were able to categorize each code as a fee, fine, or restitution using the state code. The remaining balance owed by ex-felons indicates whether they are eligible or ineligible for a restoration of voting rights.

7. The data we received from the Alabama Board of Pardons and Paroles, described below, is not in the public record, however, and was obtained via an agreement with the board.

8. The exceptions are individuals who have been convicted of a felony in federal or another state's court. Alabama does not expunge convictions from criminal records.

9. In general, a defendant whose income is at or below 125 percent of the federal poverty level is eligible for a public defender, but those with an income of up to 200 percent of the poverty level may qualify if the trial judge finds that not providing counsel would pose a substantial hardship. See Ala. Code, sec. 15-12-1.

5.2. Sampling Case Records

Greenberg, Meredith, and Morse (2016) collected a sample of circuit court cases for 1995, 2000, and 2005–11. They downloaded a systematic sample of every 51st case in each circuit court–year, beginning with a randomly selected integer between 1 and 51. We are limited in our ability to characterize the disenfranchised population using this case-level random sample because disenfranchisement applies to an individual, not a case. Disenfranchised ex-felons are eligible to restore their voting rights only if they have paid off all LFOs, and an individual who has paid all of the LFOs on one case may still owe a balance on another.

To address this, we collect the full case history of every person convicted of a felony in Greenberg, Meredith, and Morse’s (2016) case sample between 2005 and 2011.¹⁰ We refer to the case that resulted in an individual’s inclusion in this data set as the seed case.¹¹ Because Alacourt does not assign each defendant a global identifier, we use the database’s party search query, which returns all of the court records associated with a specific last name and date of birth, to construct this full case history. Section A2 details our strategy for determining whether a given defendant is the same as the defendant in the seed case.

We use the full case history to construct an individual-level data set containing the aggregated LFOs for each of the individuals sampled from the case-level data in Greenberg, Meredith, and Morse (2016). We identify the race and public defender status of each individual using the details of the seed case.¹² We determine whether each individual in our sample is off supervision, one of the requirements to restore voting rights. We do this by examining whether a given individual has completed the maximum sentence received for each conviction in each of their cases.¹³ This is a conservative approach, as often part or all of the total sentence is suspended rather than imposed.

Not all people convicted of a felony between 2005 and 2011 are

10. Most people convicted of a felony in Alabama have a case in circuit court. However, this sampling strategy will miss the few individuals who are convicted of a felony in district court.

11. For the small number of people who were sampled multiple times by Greenberg, Meredith, and Morse, we randomly selected one of these cases as a seed case.

12. This approach is superior to defining public defender status as some function of all of the cases associated with an individual because individuals with more cases will be more likely to employ a public defender in one of them.

13. When cases include multiple convictions, the case record identifies whether the sentences are to be served concurrently.

equally likely to be selected into Greenberg, Meredith, and Morse's (2016) sample. Someone convicted of a felony in multiple cases is more likely to be selected into their sample than someone convicted of a felony in a single case. Because our individual-level data set is drawn from this sample, people convicted of felonies in multiple cases will be overrepresented in our data. But knowledge of someone's complete case history is sufficient to calculate π_i —the probability that convicted felon i was selected into Greenberg, Meredith, and Morse's sample. We show how we solve for π_i given an individual's complete Alacourt history in Section A1. Thus, we can account for unequal probability of selection by weighting observations by $1/\pi_i$ when conducting individual-level analyses.

5.3. Voting-Rights-Restoration Application Data

The Alabama Board of Pardons and Paroles provided data on the population of applications submitted for a Certificate of Eligibility to Register to Vote between January 2000 and June 2014. We observe whether each applicant was granted voting rights, denied voting rights, or reminded that he or she never lost the right to vote.¹⁴ We also observe each applicant's full name, unique Alabama institutional serial (AIS) number, date of birth, date of application, and granted date if applicable. Note that we do not observe race or public defender status in these data.

The board uses an additional field to make nonstandardized comments. These internal notes elaborate on the reason for each application decision and allow us to differentiate between applications that were denied because of outstanding LFOs and those that were denied for other reasons, such as the nature of the crime requiring a pardon instead of a certificate.¹⁵

5.4. Linking Application Data

We linked application data to court records to get information about the race and public defender status of applicants seeking to restore their voting rights. Linking application data to court records is difficult because there is not a common identifier in the two data sets. We manually searched Alacourt for court records that have a similar full name and the same birth date as an applicant. Because of the time constraints involved

14. In some cases, the board also lists applications as pending review. In others, applications are closed after a complete review—if required sentencing information is unavailable, for example.

15. These crimes are defined in Ala. Code, sec. 15-22-36.1(g).

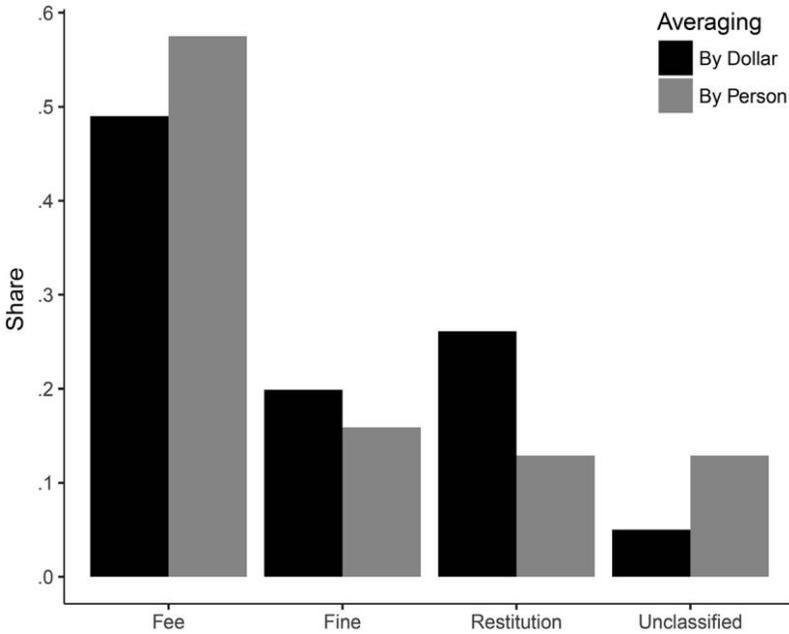


Figure 1. Share of legal financial obligations by type

with carrying out these searches,¹⁶ we searched for a random sample of only 884 of the 25,961 applications we observe. We matched 71.5 percent of applicants to a felony case record in Alacourt.

As we discuss in Section A3, we also linked application data to a census of Alabama prison-discharge records. Doing so allowed us to calculate the rate at which people who have been imprisoned in Alabama submit applications to restore their voting rights.

6. RESULTS

6.1. Alabama Court Records

Figure 1 shows that a substantial share of LFOs assessed in Alabama are fees rather than fines and restitution. As mentioned in Section 5, we focus on individuals who have completed their maximal sentence(s), weight ob-

16. We performed these searches on-site at the Alabama Board of Pardons and Paroles on July 1 and 2, 2014.

Table 1. Prevalence of Fees by Type

| | Share of All Fees |
|--------------------------------|----------------------|
| Docket | 26.9 |
| Public defender | 23.7 |
| District attorney's collection | 20.5 |
| Crime victims' fund: | |
| Mandatory | 5.8 |
| Discretionary | 3.2 |
| Drug | 5.5 |
| Subpoena | 3.9 |
| Criminal history | 3.7 |
| Other | 7.0 |

servations by each individual's probability of selection into our sample, and exclude traffic cases for generalizability with other states.¹⁷ The dark bars pool the LFOs assessed over all cases in the sample to calculate the share of the total LFO assessment by type, which gives each dollar assessed to a defendant an equal weight. We show that fees compose about 44 percent of the total amount of LFOs assessed. The gray bars present the average share of LFOs by type assessed to each individual, so that each person, rather than each dollar, is given equal weight. We find that, on average, fees make up about 57 percent of an individual's total LFO assessment. The differences between the black and grey bars demonstrate the importance of our individual-level data. In particular, a small number of large assessments makes the total share of restitution larger than the share of restitution faced by the typical offender.

Table 1 disaggregates the general category of fees in Figure 1 and presents the share of each in the pool of total fees assessed. The most common fee is a docket fee, which is assessed in all cases and uniform within, but not across, judicial districts.¹⁸ The next most common fee is assessed to defendants who make use of a public defender. The district attorney's collection fee, a surcharge equal to 30 percent of outstanding debt after 90 days, is the third most common fee. These three fees together make up about 70 percent of all fees assessed.

17. Results including felons who have not completed their sentences and traffic LFOs are in the online appendix.

18. For the docket fee in each judicial district in 2012, see Administrative Office of Courts, State and County Distribution Charts (<http://www.alacourt.gov/distributionCharts.aspx>).

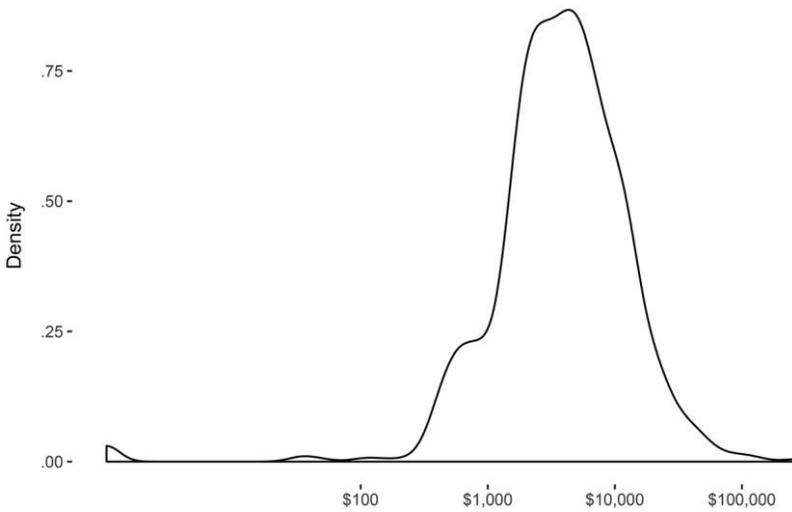


Figure 2. Distribution of legal financial obligations assessed per person

It is hard to understand how burdensome these fees might be without understanding the total amount of LFOs assessed. Figure 2 shows a kernel density plot of the total amount of criminal LFOs assessed to individuals who have completed their maximum sentences. We use a log scale for the X-axis because of the considerable right-skew distribution, in which a few ex-felons are assessed more than \$100,000 over all of their cases. Thus, throughout the paper we focus on the 25th, 50th, and 75th percentiles of the distribution to minimize the influence of these outliers. Table 2 shows that these percentiles of the distribution of total assessments are \$1,995, \$3,956, and \$7,721, respectively. Thus, while the Court ruled that a \$10 application fee was permissible in *Howard*, the fees in question in Alabama are orders of magnitude larger.

Because reinstatement of voting rights requires having no LFO balance, we are particularly interested in knowing the likelihood that an ex-felon who has completed supervision is carrying an LFO balance on at least one of his or her cases.¹⁹ The sample of all cases in Figure 3 includes more than 1,000 individuals who have completed their sentence(s) to es-

19. We believe that 39 of the 1,010 people included in this sample would require a pardon to restore their voting rights because they were convicted of one of the 14 crimes specified by the state legislature.

Table 2. Distribution of Legal Financial Obligations by Quintile

| | Sample Size | Estimated Population | Amount Due | | | Balance | | | Ex-Felons with Balances (%) |
|------------------|-------------|----------------------|----------------|----------------|----------------|---------------|-----------------|-----------------|-----------------------------|
| | | | 25th | 50th | 75th | 25th | 50th | 75th | |
| All | 1,010 | 45,610 (361) | 1,995 (121) | 3,956 (169) | 7,721 (320) | 42 (110) | 2,044 (140) | 5,433 (274) | .771 (.013) |
| Public defender: | | | | | | | | | |
| Yes | 664 | 30,081 (291) | 2,019 (150) | 4,015 (209) | 7,813 (395) | 530 (132) | 2,346 (171) | 5,627 (338) | .823 (.016) |
| No | 346 | 15,530 (214) | 1,949 (206) | 3,731 (283) | 7,534 (549) | 0 (156) | 993 (195) | 4,832 (466) | .671 (.022) |
| Difference | | | 70 [.784] | 284 [.419] | 279 [.680] | 530 [.010] | 1,353 [.000] | 795 [.168] | .152 [.000] |
| Black: | | | | | | | | | |
| Yes | 431 | 19,266 (239) | 1,916 (186) | 3,961 (266) | 7,904 (488) | 489 (172) | 2,602 (234) | 6,134 (462) | .826 (.020) |
| No | 579 | 26,344 (271) | 2,049 (160) | 3,951 (218) | 7,571 (422) | 0 (133) | 1,773 (178) | 4,993 (344) | .732 (.017) |
| Difference | | | -133 [.588] | 10 [.977] | 333 [.606] | 489 [.025] | 829 [.005] | 1,141 [.048] | .094 [.000] |

Note. The data are for people who have completed their maximal sentences, are weighted by the inverse probability of selection into the sample, and exclude legal financial obligations accrued in traffic cases. Standard errors are in parentheses; *p*-values on differences being equal to 0 are in brackets. The sum of estimated population by subgroup may not equal the total because of rounding.

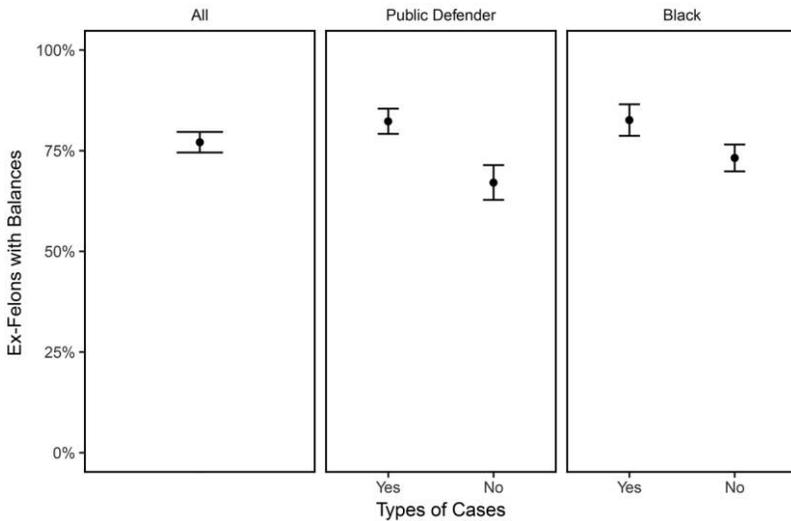


Figure 3. Percentage ineligible to vote

timate that about 75 percent have such a remaining balance.²⁰ The large sample size allows us to be relatively confident that the population parameter is close to this estimate. The fact that the loss of voting rights is just one of a number of collateral consequences for nonpayment suggests that many individuals may be unable, rather than unwilling, to pay.²¹ And as we show in Section 6.2, even individuals who have demonstrated a clear desire to vote have a remaining balance.

To further examine how indigency plays a role in disenfranchisement, we next consider whether an individual's use of a public defender—a proxy for ability to pay—is associated with his or her LFO balance.²² If lack of ability to pay is the issue, we expect to observe that those who use a public defender are more likely to carry an LFO balance than those who do not. Figure 3 confirms this hypothesis—82.3 percent of public defense users have a balance compared with 67.1 percent of those who

20. Figure 3 presents the estimated percentages of individuals with a positive balance remaining, given our sample in Table 2, with 95 percent confidence intervals on the population parameter.

21. Bannon, Nagrecha, and Diller (2010) detail some of these other collateral consequences. In Alabama, failure to pay can result in the extension of probation, the suspension of a driver's license, and the addition of interest. See Ala. Code, rule 26.11.i.3.

22. As mentioned above, defendants with incomes at or below 125 percent of the poverty level are eligible for a public defender, and those with incomes of up to 200 percent of the poverty level may qualify.

retain counsel. Table 2 shows that we can reject the null hypothesis of no difference with a p -value of less than .01. These findings are particularly relevant given Justice Sandra Day O'Connor's recent decision in *Harvey* (605 F.3d 1080) in which she speculates that "perhaps withholding voting rights from those who are truly unable to pay . . . due to indigency would not pass [a] rational basis test."

One concern that people may have about our interpretation of this result is that those who employ a public defender may be assessed more in LFOs to begin with, either because of the quality of their counsel or the fact that public defense is not free, as shown in Table 1. While Table 2 shows that defendants represented by public defenders are assessed slightly more, the importance of this is swamped by the plethora of different LFOs that everyone going through the Alabama criminal justice system is assessed. In fact, we cannot statistically distinguish between the two distributions at the 25th, 50th, or 75th percentiles.

These findings are consistent with plaintiffs' claims in *Harvey* and *Bredesen* that conditioning voting rights on LFOs has a disparate impact on the poor. However, courts generally have not recognized this as grounds for overturning state disenfranchisement policies. Courts distinguishing between the right to vote and the restoration of the right to vote already limit a potential avenue to increase judicial scrutiny. The fact that wealth is not considered a protected class has meant that these laws have been considered under a deferential rational basis review, where they are unlikely to be struck down.

Many laws that have a disparate impact on the poor also are likely to have a disparate racial impact because of the strong link between race and wealth in America. But while race is a suspect class, neither the judges nor those challenging disenfranchisement laws had data available to them on the incidence of LFOs by race.

Figure 3 supplies the missing data and demonstrates that black ex-felons are about 9.4 percentage points less likely to be eligible to vote because of an outstanding LFO debt. Table 2 shows that we can reject the null hypothesis of no racial difference with a p -value of less than .01. Table 2 also shows that there is little difference in the distribution of the total amount assessed to black and nonblack defendants. This is a point worth underscoring. This is not Selma, 1965—local judges do not systematically treat blacks differently than similarly situated nonblacks, and we see evidence of this racial parity in similar assessments. Instead, dis-

parate impact today stems from lingering racial disparities in wealth that make blacks less able to pay increasingly steep LFOs than nonblacks.

6.2. Alabama Applications

While the vast majority of ex-felons, despite completing their sentences, are not eligible to regain the vote in Alabama, ex-felons are not equally harmed because not all are interested in voting. In this section, we shift our focus from the population of ex-felons in the state to the subset of ex-felons who applied to the Board of Pardons and Paroles for a Certificate of Eligibility to Register to Vote. We do this to investigate whether there exists a detectable interest in voting among those who are ineligible to restore their voting rights because of LFOs.

Figure 4 presents the share of applications denied because of LFOs when all other conditions for reenfranchisement are met (completed sentence, no pending charges, crime of conviction is eligible for reenfranchisement). The share is calculated as the number of applications denied solely for outstanding LFOs divided by the sum of the total number of applications granted and the total number of applications denied solely because of outstanding LFOs and is shown with 95 percent confidence intervals on the population parameter. The data for all applications show that a third of applications that are otherwise complete are denied because of outstanding debt.

To learn more about the demographic characteristics of individuals who had their applications denied because of LFOs, we utilize the random sample of applicants whom we linked to Alacourt records. The chief advantage of this constructed data set is that we learn the public defender status and race of applicants, neither of which is included in the Board of Pardons and Paroles' administrative files. Figure 4 shows that 44 percent of applicants who were linked to an Alacourt record were denied because of LFOs. We speculate that individuals in our linked data set are slightly more likely to be denied because people with older convictions are both more likely to pay off their LFOs and less likely to appear in Alacourt.

Figure 4 also reveals that the disparate impact in eligibility is reproduced in the share of applications denied. Applicants who used a public defender are 15 percentage points more likely to be denied because of an outstanding debt than applicants who retained counsel, while black applicants are 26 percentage points more likely to be denied because of an outstanding debt than nonblack applicants. These patterns suggest that the disparate impact in the probability of having a nonzero LFO balance

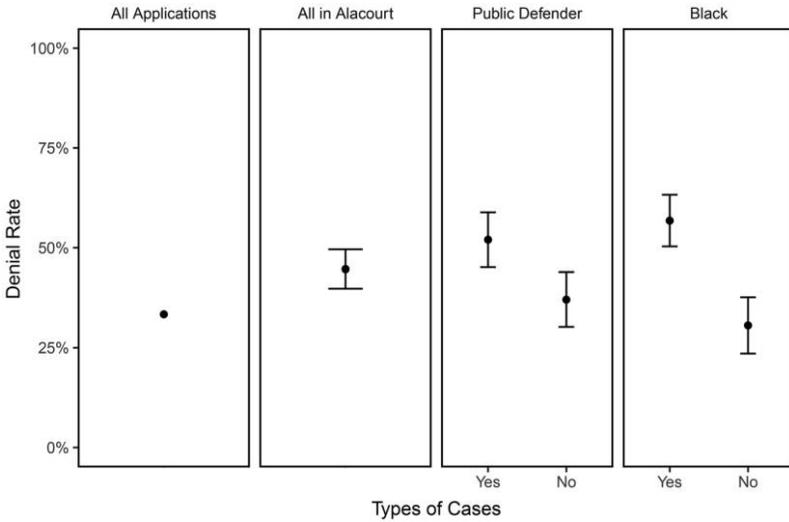


Figure 4. Application denial rate

is also present within the subpopulation that is most harmed, because they want to restore their voting rights.

One downside of looking at disparate impact in application denial, as opposed to the probability of a nonzero balance, is that we do not observe the universe of cases of people who would want to restore their voting rights. This is because of both lack of awareness of the application process and the fact that some people know that their application will be denied because of an LFO balance. An alternative explanation for these patterns is that blacks and nonblacks are equally harmed by the LFO requirement, but blacks with LFO debt who wish to vote are more likely to apply than nonblacks with LFO debt who wish to vote.

Although we cannot definitively rule out this alternative explanation, we doubt it explains all of the racial differences we observe in application denial. To indirectly assess this possibility, Table 3 presents the application rate of ex-prisoners by race and sex. A total of 5.3 percent of formerly incarcerated blacks applied to restore their voting rights, as compared with 4.2 percent of formerly imprisoned nonblacks. The 26 percent higher application rate among blacks than nonblacks could be evidence that black applicants are less likely to be informed about the law than nonblack applicants. This would explain most of the difference in the denial rate. But observing a higher application rate among blacks than

Table 3. Felony Offenders' Application Rates in Alabama

| | Discharged by 2012 | | Discharged by 2009 | |
|-----------------|--------------------|------|--------------------|-------|
| | N | Rate | N | Rate |
| All offenders | 68,787 | 4.81 | 42,106 | 6.51 |
| Black male | 31,490 | 4.83 | 19,057 | 6.42 |
| Nonblack male | 26,321 | 3.92 | 15,881 | 5.55 |
| Black female | 4,108 | 9.27 | 2,888 | 11.39 |
| Nonblack female | 6,868 | 5.47 | 4,280 | 7.17 |

nonblacks is consistent with previous work showing that black ex-felons are more politically active than nonblack ex-felons. For example, Burch (2011) finds that black ex-felons in five automatic-restoration states were about 15 percent more likely to vote than nonblack ex-felons in the 2008 presidential election. Thus, while strategic application could explain some portion of the differential denial rate between blacks and nonblacks, it is unlikely to explain the entire 26-percentage-point difference.

Because the black community is more affected by felon disenfranchisement than the nonblack community, our expectation is that blacks would be at least as informed about Alabama's policy as nonblacks. Unfortunately, we are not aware of any data that would allow us to directly examine differences in awareness of disenfranchisement policy by race. We find that the share applicants who applied to restore their voting rights despite never having lost them in the first place is slightly lower for blacks than nonblacks, although we cannot reject the null hypothesis of no difference in the population. This suggests that there are not massive informational differences between blacks and nonblacks, at least with respect to the application process.

6.3. Tennessee Applications

In an effort to show that LFOs have a more general impact on voting rights beyond the confines of Alabama, we also considered the impact of a similar policy in Tennessee. Ex-felons who have not paid their fines, fees, and restitution may not apply to restore their voting rights in the state. Ex-felons who have paid their fines, fees, and restitution may do so, though they will be successful only if they are also current on their child support, another form of legal debt. We performed a similar analysis and observe a similar pattern, with black male applicants four times more likely to be denied because of child support than their nonblack male counterparts.

7. CONCLUSION

The Supreme Court has heard only two cases on criminal disenfranchisement, affirming California's law in 1974 but striking down Alabama's a decade later. *Ramirez*, discussed in Section 3, laid out the constitutional defense of criminal disenfranchisement, while *Hunter* outlined when a state might take the "affirmative sanction" too far (*Ramirez*, 418 U.S. 54). Together, these two opinions—decided on the eve of mass incarceration—set the standard by which other criminal-disenfranchisement schemes are evaluated. While the former is better known for offering lower courts a deferential standard to evaluate criminal-disenfranchisement policies, the latter is more important to understanding how the right to vote is still entangled with the ability to pay legal financial obligations, despite the disparate class and racial impact we document.

Hunter focused on the racial intent of policy makers when establishing Alabama's disenfranchisement policy. The state law—like those of many southern states—was born out of a constitutional convention called to undermine Reconstruction. The Court, citing the raw racial goals of the delegates, found that the law "would not have been adopted by the convention or ratified by the electorate in the absence of the racially discriminatory motivation" (471 U.S. 231).²³

The Supreme Court decision—the only to overturn a criminal-disenfranchisement statute—set such a high bar for a legal challenge that no state policy has been struck down subsequently. For example, although a court of appeals granted a Tennessee black man's claims that the state's disenfranchisement law was part of a history of racial discrimination that continued into the present, it found no violation of the Voting Rights Act or the Fourteenth Amendment because the plaintiff could not prove malicious intent (*Wesley v. Collins*, 791 F.2d 1255 [1986]). Even with hard-to-come-by historical evidence of the racial motivations of legislators, lower courts have interpreted *Hunter* such that a state can effectively save its law from its racist roots by subsequently modifying it. For example, an appeals court acknowledged the explicit racial animus of Mississippi's 1890 constitutional convention that introduced criminal

23. Alabama chose to disenfranchise "any crime involving moral turpitude," introducing the vague, elastic, and politically potent definition in addition to 23 specifically enumerated crimes. One of them was assault and battery of the wife, which Gross (1969, p. 244) claims was included by the provision's author, John Burns, because Burns believed that it would disenfranchise 60 percent of African Americans. For much of its history, Alabama interpreted moral turpitude to encompass certain misdemeanor crimes—such as worthless checks—but the Supreme Court restricted the practice to felonies.

disenfranchisement but considered subsequent facially neutral midcentury modifications to have “overcome its odious origin” (*Cotton v. Fordice*, 157 F.3d 388 [1998]).

Given this standard, broad statistical evidence of the type presented here—about impact, not intent—does not ordinarily implicate the Constitution. But we suggest that judges might want to scrutinize disparate-impact claims more closely the more contemporary institutions of disenfranchisement look like the tainted ones of the past. In this case, Alabama’s contemporary policy still bears a close resemblance to its historical antecedent. The state’s practice of permanent disenfranchisement stems from the 1901 constitution, while the use of legal financial obligations has roots in the era of convict leasing (Greenberg, Meredith, and Morse 2016). While Alabama used to tie the right to vote to the payment of these fees, fines, and orders of restitution through an informal pardon process, it has now made these conditions explicit. In other words, the current disenfranchisement regime was layered on, rather than substituted for, the policy at the heart of *Hunter*. Alabama has been able to mollify courts by passing a constitutional amendment modifying who it disenfranchises and plausibly extinguishing any animus from the drafting process. This outcome, though, might be different were a judge to evaluate the contemporary evidence of continued disparate racial impact in light of, instead of despite, the state’s historical racial animus.

Although the role of race is crucial in the extant case law, surely guiding our efforts here, this should not obscure the fact that our data show that a majority of all ex-felons in Alabama—white, black, or otherwise—cannot vote because of debts they owe to the state. This is in keeping with previous work that found traditional poll taxes reduced the turnout of the poor across all races (Filer, Kenny, and Morton 1991). While there is a process in place for the restoration of voting rights in Alabama, state officials and policy makers should recognize that it is not available to many ex-felons. This fact about debt and disenfranchisement has been obscured by the decentralized administration of LFO policy, in which both state and local legislators set court fees and fines (Greenberg, Meredith, and Morse 2016), local judges assess them, and local clerks collect and distribute the proceeds throughout the state, with a state executive agency handling voter restoration. State officials should move to centralize this process—in terms of both policy making and, critically, record keeping—so that parties are no longer blind to the increasingly tangled web of collateral consequences.

The decision to make relief from one collateral consequence of a criminal conviction—the loss of the right to vote—explicitly dependent on another—the payment of court fees, fines, and restitution—has reshaped the electorate. Alabama’s policy, tantamount to permanent disenfranchisement for many, illustrates where and why criminal-disenfranchisement policy is consequential. In the vast majority of states, felons are stripped of the vote during periods of supervision, but ex-felons, of which there are many more, may vote. In this case, criminal disenfranchisement is unlikely to be electorally significant (see, for example, Miles 2004; Hjalmarsson and Lopez 2010; Meredith and Morse 2015). But this is less likely where the vast majority of ex-felons also are stripped of the vote. In the 15 Senate races that Manza and Uggen (2006) estimate would have been won by Democrats, but for criminal disenfranchisement, between 1978 and 2000, all but one of the states had a policy of postsentence disenfranchisement, which swelled the number of ex-felons barred from the voter rolls.

Scholars should continue to investigate the potential redistributive effects of bringing the criminally disenfranchised back into the political process. More research is also needed on the causal effect of legal debt on a host of defendant outcomes, such as recidivism, employment, and health, perhaps leveraging the recent increase in LFOs across a range of jurisdictions. We also need a better understanding of the state and local political processes that have generated this growth, particularly in court fees.

APPENDIX: ADDITIONAL INFORMATION ON ALABAMA DATA

A1. Sampling Alacourt Records

Alacourt is a database that contains a relatively comprehensive set of case records associated with criminal charges filed in Alabama state court. In Greenberg, Meredith, and Morse (2016), an Alacourt case number search query was used to collect the court records associated with a set of case numbers. A case number in Alabama consists of a county, case year, and judicial division, plus a six-digit identifying number and a two-digit extension.²⁴ Cases are sequentially numbered in each judicial division in a case year. Thus, the first case in a judicial division in

24. The Alabama court system uses case extensions to differentiate between types of hearings. It collects only the initial case with a .00 extension and does not collect subsequent hearings, such as those concerning probation revocation, with different case extensions.

a given year is number 1, the second case of the year is number 2, and so forth. Greenberg, Meredith, and Morse used systematic sampling to collect a sample of circuit case records from 1995, 2000, and 2005–11. In each judicial division j and case year y , they drew a random integer $X_{j,y} \in [1, 51]$. In that judicial division and case year, they downloaded the case records associated with case numbers $X_{j,y} + 51 \times 0$, $X_{j,y} + 51 \times 1$, $X_{j,y} + 51 \times 2$, $X_{j,y} + 51 \times 3$, and so on, until they reached a k such that $X_{j,y} + 51 \times k$ was larger than the highest case number in that judicial division and case-year.

We use Greenberg, Meredith, and Morse's (2016) sample of Alabama Circuit Court case records to construct a complete case history, including LFO assessment and payback, for the subsample of individuals convicted of a felony in Alabama circuit court between 2005 and 2011. To construct our individual-level sample, we used Alacourt's party search query, which returns all of the court records associated with a specific last name and date of birth. We first constructed a list of every last name and date of birth combination attached to a case with a felony conviction between 2005 and 2011 in Greenberg, Meredith, and Morse's circuit court sample. We downloaded every court record associated with a last name and date of birth combination contained in this list. We then processed the data, using the rules outlined in Section A2, and discarded records that appeared to be for a different individual with the same last name and date of birth. Finally, we summed the LFOs accrued and the balance remaining over all of the nondiscarded cases associated with that last name and date of birth.

Some convicted felons are more likely than others to be selected into Greenberg, Meredith, and Morse's (2016) case-level sample. Define π_i as the probability that convicted felon i was selected into their sample. To make our sample representative of the population of people convicted of felonies in Alabama between 2005 and 2011, we weight each observation by $1/\pi_i$ when conducting individual-level analyses. Fortunately, knowledge of convicted felon i 's complete Alacourt history is sufficient to be able to calculate π_i . We first calculate $n_{i,j,y}$ —the number of integers between 1 and 51 that would have caused convicted felon i to be selected into the case-level sample in district j and year y —using our knowledge of the case numbers in which individual i was convicted of at least one felony; π_i is equal to $1 - \prod_j \prod_y (1 - n_{i,j,y}/51)$.

A2. Filtering the Sample of Alabama Felons

We used a matching procedure to create a case history of a random sample of felony offenders. As explained in Section 5, we first downloaded all cases associated with a last name and date of birth of anyone convicted of a felony in Alabama Circuit Court between 2005 and 2011. We then used a matching procedure to determine whether the full name in each of these records is sufficiently similar to the full name of the individual convicted of a felony. We implemented this by computing the Levenshtein distance for standardized first, middle, and last names.

This distance is missing when either or both of the comparison records are not available (for example the query record has the middle name “Jacob” but the felon-sample record reports no middle name). A query record was matched to a seed case when they met the following four criteria: The date of birth in the query record and seed record must be valid, and they must exactly match. The last name in both records must be valid, and the transformation distance must be less than or equal to 1. The first name in both records must be valid, and the transformation distance must be less than or equal to 2. If both records have a valid middle name, the transformation distance for must be less than or equal to 1. (In the case of a middle initial, both middle names were truncated to one character before filtering.)

A3. Alabama Application Rate

The Alabama Department of Corrections provided individual-level incarceration records on the population of offenders who entered the state corrections system between January 1, 2000, and December 31, 2011. The data contain an individual’s full name, unique AIS number, year of birth, gender, race, date of entry, date of discharge, and all known offenses. Because some people are discharged from incarceration to parole or probation, we do not know precisely when these individuals potentially became eligible to restore their voting rights. We also do not observe people in these data who were convicted of a disenfranchising felony but never incarcerated.

Although we observe the population of applicants, we do not have a complete census of ex-felons who would need to apply to the Board of Pardons and Paroles to restore their voting rights. Instead, we estimate an application rate on the subset of ex-felons who were incarcerated on or after January 1, 2000, were released by December 31, 2011, and qualify for a Certificate of Eligibility to Register to Vote.²⁵

There are some limitations of using these data to estimate an application rate. An ex-felon is an individual who was convicted of a felony and has since completed his or her entire sentence, including any probation or parole. Because we use data from the Alabama Department of Corrections, we are not able to identify individuals who were convicted of a felony but never incarcerated. We also cannot precisely identify when an individual released from the Alabama Department of Corrections becomes an ex-felon, as we do not observe potential parole status. To address the latter issue, we also estimate an application rate on a subset of indi-

25. We keep individuals who have at least one crime that might be a crime of moral turpitude. Our definition includes the crimes whose disenfranchising status has not been identified in statute or by the attorney general. The Board of Pardons and Paroles communicated to us that it treats “all felonies as disenfranchising for restoration purposes unless specifically defined by case law or the AG as being non-moral turpitude felonies” (Meredith Barnes, chief legal counsel, Alabama Board of Pardons and Paroles, Legal Division, e-mail to authors, June 17, 2015).

viduals discharged by 2009 in Table 3. These individuals are most likely to have completed parole and probation.

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10 ONLINE APPENDIX

10.1 Tennessee

10.1.1 Criminal Disenfranchisement Law

Tennessee's practice of criminal disenfranchisement originated with Article IV, §3 of the Constitution of 1835, which states that,

“Laws may be passed excluding from the right of suffrage persons who may be convicted of infamous crimes.”

Unlike moral turpitude in Alabama, Tennessee's code clearly delineated between infamous and non-infamous crimes (Holloway, 2014, p. 5), and all felonies became infamous crimes in 1981. Holloway also notes that by 1840, Tennessee established a system in which people convicted of infamous crimes were permanently disenfranchised, although they could petition a circuit court to have their civil rights, including their voting rights, restored once they had completed their sentence.

This nineteenth-century restoration system largely endured until 2006, when the legislature simplified the restoration process. Instead of having ex-felons petition a circuit court to restore their voting rights, an agent of the court, such as a probation or parole officer or criminal court clerk, submits an application to a county election clerk on behalf of an ex-felon who wants to restore their voting rights. The law also established for the first time an objective, formal set of criteria that an ex-felon must meet to have their voting rights restored. In addition to being granted final release from their sentence, an ex-felon also must have paid all court ordered restitution and be current on the payment of any child support. The law was amended in 2010 so that ex-felons must also have paid any court fees and fines they were assessed.

Figure SA1 displays a copy of the application that an agent of the court must submit on behalf of an ex-felon who wishes to restore their voting rights. The figure shows that prior to submitting an application, the agent of the court certifies that all court costs have been paid. Thus, people who are ineligible to restore their voting rights because of unpaid court costs are not likely to submit an application in the first place. In contrast, the state verifies that the applicant does not have any outstanding child support payments or arrearages only after the application is submitted. Thus, we anticipate that unpaid child support will be the primary reason that an application gets denied in Tennessee.

Figure SA1: Current Tennessee Restoration of Voting Rights Application

Division of Elections
Tre Hargett, Secretary of State



State of Tennessee
312 Rosa L. Parks Avenue, 7th Floor
Nashville, Tennessee 37243
615-741-7956

CERTIFICATE OF RESTORATION OF VOTING RIGHTS for Persons Convicted of a Felony on or After May 18, 1981

This includes all federal convictions, state convictions
within Tennessee or state convictions from another state.

TO BE COMPLETED BY AN AGENT OF THE PARDONING AUTHORITY, AN AGENT OR OFFICER OF THE INCARCERATING AUTHORITY, OR A PROBATION/PAROLE OFFICER OR AGENT OF THE SUPERVISING AUTHORITY. A SEPARATE FORM MUST BE COMPLETED FOR EACH FELONY CONVICTION WITH A DIFFERENT DOCKET/CASE NUMBER. THE PERSON CONVICTED OF THE FELONY OFFENSE MAY NOT COMPLETE THIS FORM.

- I hereby certify that the following information is true and correct:
 - Applicant's Name: _____
(First) (Middle) (Last)
 - Applicant's County of Residence: _____
 - Felony Conviction: _____
 - Month/Day/Year of Conviction: _____ TOMIS ID: (if applicable) _____
 - Date of Birth: _____ f. Soc. Sec. No.: _____

- On the _____ day of _____, _____ **(check one)**
 - The above individual received a pardon which contained no special conditions pertaining to the right of suffrage. A copy of said pardon is attached hereto; *or*
 - The maximum sentence imposed for such infamous crime has been served by the above individual; *or*
 - The maximum sentence imposed for such infamous crime has expired; *or*
 - The above individual has been granted final release from incarceration or supervision by the Board of Probation/Parole, the Department of Correction, or county correction authorities.

Signature: _____ Date: _____
 Printed Name: _____ Title: _____
 Address: _____ Phone Number: _____

- I hereby certify that the following is true and correct: **(check one)**
 - The court did not order the above individual to pay any restitution as part of his or her sentence; *or*
 - All of the restitution ordered by the court as a part of the sentence for the above individual has been paid.

Signature: _____ Date: _____
 Printed Name: _____ Title: _____
 Address: _____ Phone Number: _____

- I hereby certify that the following is true and correct: **(check one)**
 - The court did not order the above individual to pay any court cost as part of his or her sentence; *or*
 - All court cost assessed against the above individual has been paid; *or*
 - The court has made a finding at an evidentiary hearing that the above individual is indigent at the time of application.

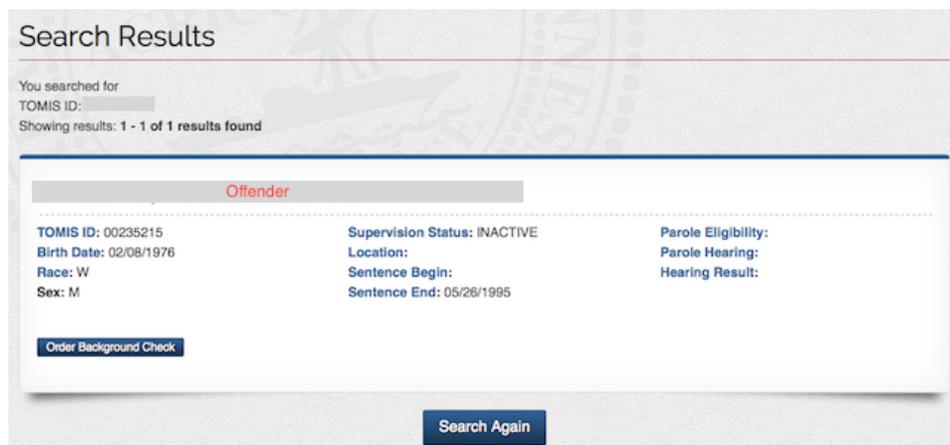
Signature: _____ Date: _____
 Printed Name: _____ Title: _____
 Address: _____ Phone Number: _____

10.1.2 Data

Offender Data We collect data on criminal justice records in Tennessee using an electronic search tool—the Felony Offender Information Lookup (FOIL) system – that provides information on people who have been convicted of felonies in Tennessee since the mid-1990’s. The FOIL system can be searched by ID number – either a Tennessee Offender Management Information System (TOMIS) ID or state identification (SID) number – or by name.

Figure SA2 provides an example of the information available about individual offenders, including their full name, TOMIS ID, date of birth, race, sex, sentence start and end date, and supervision status. One limitation of Tennessee’s FOIL database is that it only reports an individual’s current status in the Tennessee criminal justice system. This status is our best indication of whether a felony offender is potentially eligible to restore their right to vote: an offender status of “INACTIVE” indicates that a felony offender is not currently under supervision. Records with an inactive status indicate that an individual is eligible to restore their voting rights if he or she has paid all of their LFOs, including child support. We are unable to observe whether someone has any outstanding LFOs.

Figure SA2: Screen Shot of Tennessee Felony Information Search



Because a CAPTCHA code needs to be entered along with each search of the FOIL database, we were unable to scrape the entire contents of the underlying database. Just as in Alabama, we randomly sample offender records from FOIL, although here it is much more straightforward because each convicted felon has a single record in this database. Tennessee’s FOIL database is searchable by TOMIS ID and our initial searches of the database allowed us to determine that a feasible TOMIS ID is a number between 1 and 600,000. We randomly generated 6,000 numbers between 1 and 600,000, manually entered each of these into the TOMIS search, and downloaded the resulting output from each of these 6,000 searches.

Voting Rights Restoration Application Data We collected restoration data on 11,698 applications for a Certificate of Restoration of Voting Rights from the Tennessee Secretary of State that were received between between March 1986 and July 2013.³² In addition to observing whether each application was approved or denied, we observe each applicants' full name, date of birth, county of conviction, and date of decision. If an applicant's voting rights were restored, we learn their criminal charge and their date of conviction. If an applicant's voting rights were not restored, we learn the reason for denial. About 80% of denials are the result of unpaid child support obligations. Other reasons given include unpaid restitution or court costs and incomplete or insufficient documentation. We do not observe the race or sex of either approved or denied applicants.

Linking Application Data Because there isn't a common identifier in the application and offender data, we link application data to offender records using a process similar to that detailed in Meredith and Morse (2015). This process searches for a record in FOIL that has a similar name and the same birthdate as each offender record. We attempted to link all applicants that were denied, and random subset of 20% of the applicants who were approved. Table SA1 shows what the dataset looks like that we produce by linking application data to a random sample of offender records.

Table SA1: Stylized Example of Application Records Linked to Corrections Record

| Application Records | | | | | | Corrections Records | | |
|---------------------|--------|------|-----|----------|---------------|---------------------|------|-------------|
| Name | | Last | DOB | Decision | Comment | Race | Sex | Supervision |
| First | Middle | | | | | | | Status |
| █ | █ | █ | █ | Denied | Child Support | Black | Male | Inactive |
| █ | █ | █ | █ | Approved | — | White | Male | Inactive |
| █ | █ | █ | █ | Denied | Child Support | — | — | — |
| █ | █ | █ | █ | Denied | Other | Black | Male | Inactive |

We also linked application data to our sample of inactive records collected from FOIL. Doing so allowed us to calculate the rate at which people who have been discharged from supervision in Tennessee submit applications to restore their voting rights.

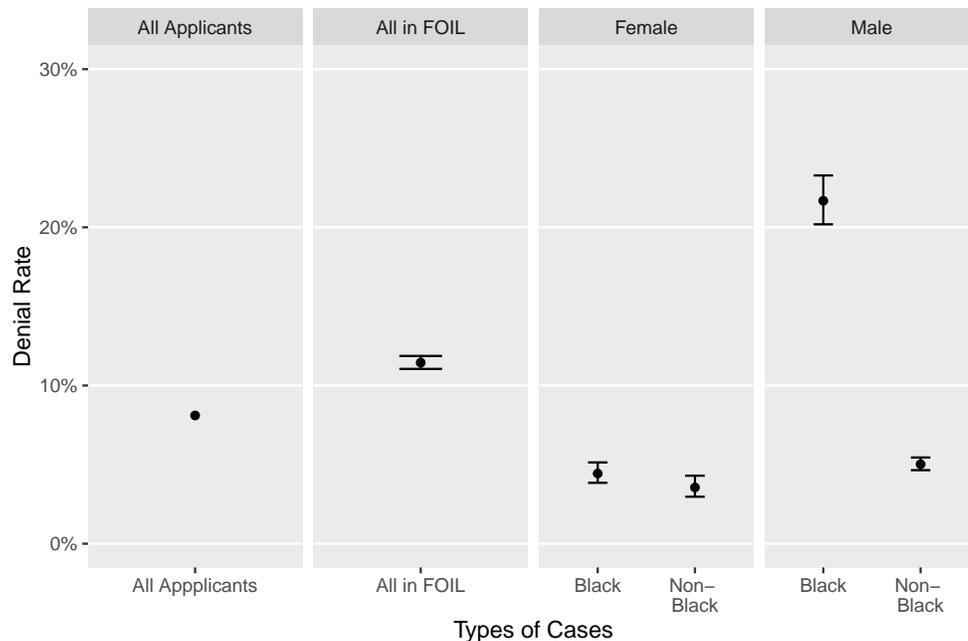
10.1.3 Results

In addition to payment of fees, fines, and restitution, Tennessee requires that ex-felons are current on child support obligations before voting rights can be restored. As we discussed in Section 10.1, an agent of the court certifies that applicants have paid fee, fines, and restitution prior to the submission of an applications. Because this prevents applicants with unpaid fees, fines, and restitution from submitting an application, most denials occur

³²Figure SA4 shows a substantial increase in the number of voting rights restoration applications submitted in recent years, suggesting that the 2006 policy reform increased the number of ex-felons who restored their voting rights. The state processed almost 3,000 applications in 2008, as compared to just a few hundred in most years prior. More applications tend to be submitted in even-numbered years, perhaps because at least some people are motivated to apply by a desire to participate in a specific election.

because the applicant has outstanding child support payments or arrearages. Given that previous research shows blacks, and especially black males, are more likely to owe child support than non-blacks (Sorensen and Zibman, 2000), we expect to observe that black males have their voting rights applications denied at higher rates. We perform a similar analysis of applications in Tennessee as we did in Alabama, with Figure SA3 organized as an analog to Figure 4.

Figure SA3: Application Denial Rate due to LFOs



Note: The denial rate is the number of denied applications divided by the estimated number of approved applications plus the number of denied applications. Table SA2 details the specific statistics visualized.

Panels one and two of Figure SA3 shows that about 9% of applicants are denied, compared with almost 12% of applicants we could link to the state corrections data. The linkage allowed us to learn the race and sex of applicants, but not the public defender status, as these data are from the Department of Corrections, instead of the court system.

While panel three reveals little racial difference among female applicants, black, male applicants are four times more likely to be denied than their non-black, male counterparts. There is a nearly 20 p.p. racial gap in the probability of denial among male applicants in panel four.

Table SA3 investigates what share of people who have completed their sentence applied to restore their their voting rights. The first row of Column 1 shows that our sample of 6,000

Table SA2: Applications For a Restoration of Voting Rights in Tennessee

| | Number of | | |
|------------------|-------------------------|---------|----------------------------|
| | Approvals | Denials | Denial Rate |
| All | 6677 | 808 | 8.11% |
| All in FOIL | 4,555 (4,374, 4,734) | 589 | 11.45% (11.07%, 11.87%) |
| Black Female | 667 (572, 775) | 31 | 4.44% (3.85%, 5.14%) |
| Black Male | 1,604 (1,463, 1,755) | 444 | 21.68% (20.19%, 23.28%) |
| Non-Black Female | 433 (356, 523) | 16 | 3.56% (2.97%, 4.3%) |
| Non-Black Male | 1,851 (1,701, 2,008) | 98 | 5.03% (4.65%, 5.45%) |

TOMIS IDs produced a total 1,436 inactive records in the Tennessee FOIL database. Given that this represents a one percent sample of all TOMIS IDs, this implies that our best estimate is that there are a total of 143,600 inactive records and we are 95% sure that there are between 137,214 and 150,137 inactive records. Column 3 shows that we were able to match 49 of these 1,436 inactive records to a name and birthdate in the application data for an estimated application rate of 3.4%. We are 95% confident that the population application rate is between 2.5% and 4.9%. This application rates provide an upper bound on the legal limit of ex-felons eligible to vote: the vast majority of ex-felons do not apply to restore their right to vote and thus remain ineligible.

Table SA3: Estimate Application Rate in Tennessee by Subgroup

| | Sample Inactive | Population Inactive | Application Rate |
|------------------|--------------------|------------------------------|-------------------------|
| All | 1,436 | 143,600 (7,355, 11,133) | 3.41% (0.69%, 9.33%) |
| Black Female | 91 | 9,100 (12,373, 17,107) | 3.3% (0.17%, 4.86%) |
| Black Male | 473 | 47,300 (137,214, 150,137) | 4.23% (2.53%, 4.49%) |
| Non-Black Female | 146 | 14,600 (43,323, 51,523) | 1.37% (2.6%, 6.45%) |
| Non-Black Male | 726 | 72,600 (67,759, 77,661) | 3.31% (2.13%, 4.88%) |

The remainder of Table SA3 looks at heterogeneity in application rates by race and gender. A potential alternative explanation for the patterns in Figure SA3 is that blacks who wish to vote, but owe child support, are more likely to submit applications than similarly situated non-blacks. One implication of this alternative explanation is that we should observe higher application rates among black males than non-black males. Table SA3 does show slightly higher applications rates within our sample among black males (4.2%) and non-black males (3.3%). But black females also apply at higher rates than non-black females, suggesting that black males may apply slightly more often than non-black males for non-strategic reasons, such as blacks are more interested in restoring their voting rights. While Table SA3 also suggests that female apply less often than males to restore their voting rights, although it is possible that this is an artifact of female names being more difficult link across administrative sources (Meredith and Morse, 2015).

Another indirect test that we can use to assess whether blacks who wish to vote, but owe child support, are more likely to submit applications than similarly situated non-blacks is to examine whether the percentage of African-American applicants changed before and after the LFO requirement was added to the law in 2006. If non-blacks who owed LFOs were more likely to be dissuaded from applying than blacks who owed LFOs, we would expect to observe the percentage of African-Americans applying to be higher after the law change. In contrast, Figure SA4 shows that while we are more likely to match more recent applications in FOIL, African-American males made up a similar percentage of the applicants before and after the 2006 law change. While not conclusive, this suggests that strategic behavior is unlikely to be the primary reason why we observe applications from African-American males being denied more than four times as often as applications from non-African-American males.

10.2 Additional Figures and Tables

Figure SA4: Tennessee Applications Over Time

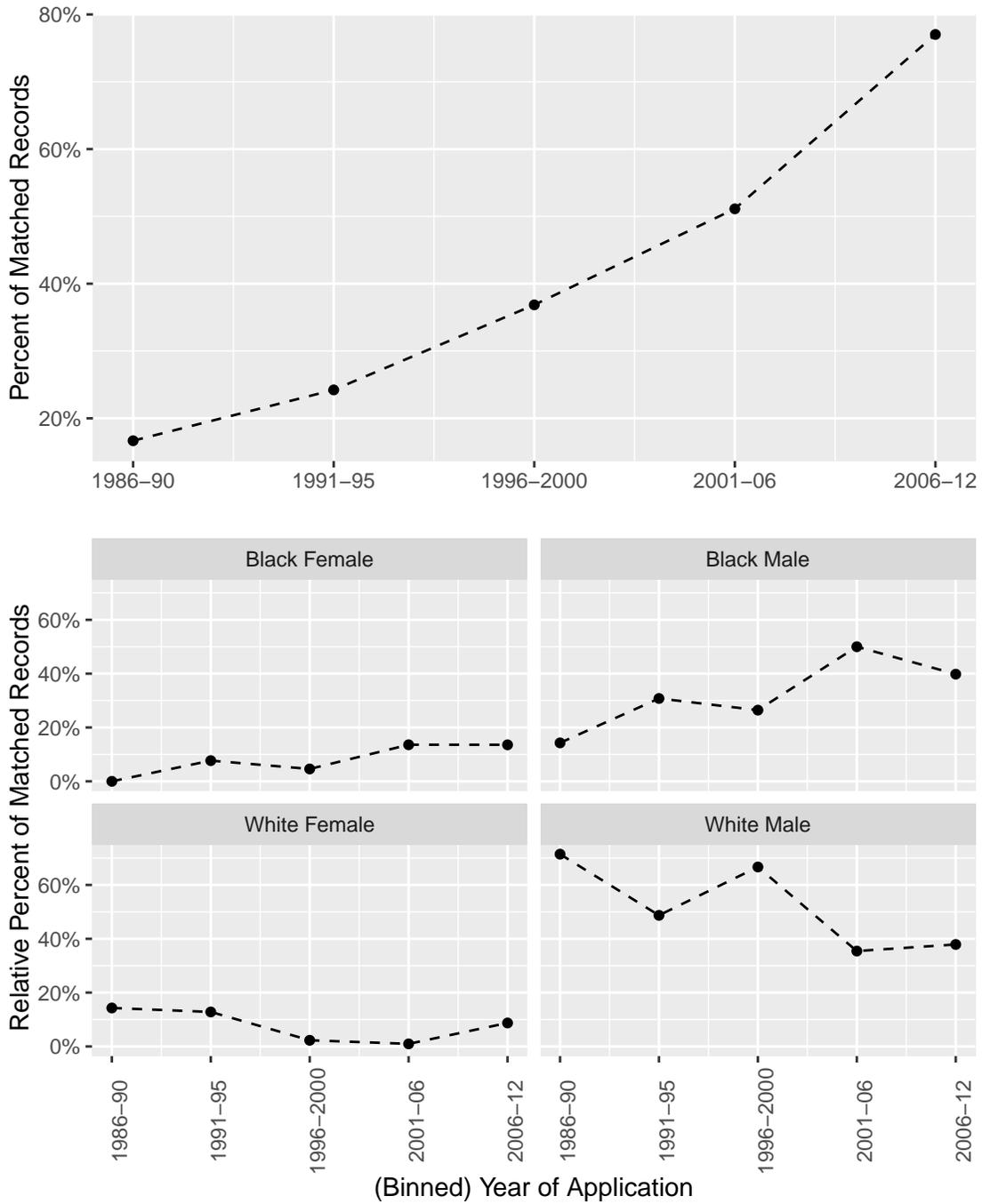


Figure SA5: Sample Case Record from Alacourt

(a) Case Details and Demographic Information

ALABAMA SJIS CASE DETAIL



County: **63** Case Number: [REDACTED] Court Action: **GUILTY PLEA**

Style: **STATE OF ALABAMA V.** [REDACTED]

Real Time

Case

Case Information

| | | |
|-------------------------------------|---|--------------------------------------|
| County: 63-TUSCALOOSA | Case Number: [REDACTED] | Judge: MBA-M. BRADLEY ALMOND |
| Defendant Status: JAIL | Trial Type: [REDACTED] | Charge: THEFT OF PROP 1ST |
| Related Cases: [REDACTED] | Probation Office Name: [REDACTED] | Court Action: GUILTY PLEA |
| Probation Office #: [REDACTED] | Traffic Citation #: [REDACTED] | DL Destroy Date: [REDACTED] |
| Jury Demand: True | Inpatient Treatment Ordered: [REDACTED] | Previous DUI Convictions: 000 |
| Grand Jury Court Action: [REDACTED] | | |

Case Initiation

| | | |
|---|-------------------------------------|--------------------------------------|
| Case Initiation Date: 03/15/2005 | Case Initiation Type: ARREST | Offense Date: [REDACTED] |
| Filing Date: 03/16/2005 | Agency ORI: [REDACTED] | Arresting Agency Type: COUNTY |
| Arrest Date: 03/15/2005 | Arresting Officer: JACOBS | City Code/Name: 00 |
| Indictment Date: 03/09/2005 | Grand Jury: 05-321 | Domestic Violence: NO |

Defendant Information

| | | |
|---|------------------------------|---------------------------|
| Name: [REDACTED] | Alias 1: [REDACTED] | Alias 2: [REDACTED] |
| Address 1: [REDACTED] | Address 2: [REDACTED] | |
| City: [REDACTED] | State: AL | Zip: [REDACTED] |
| DOB: [REDACTED] | SSN: XXX-XX-X802 | Country: [REDACTED] |
| Driver License N: AL | State ID: AL000000000 | Phone: 0 |
| Height: 5'09" | Weight: [REDACTED] | Eyes/Hair: BRO/BLK |
| Youthful Date: [REDACTED] | | Race/Sex: B/M |
| AL Institutional Service Num: 000000 | | |

Attorneys

| Number | Attorney Code | Type of Counsel | Name | Email | Phone |
|--------------|---------------|--------------------|---------------------------|----------------------|----------------|
| Prosecutor 1 | HAR092 | | HARGETT CHRISTOPHER WARRE | WHARGETT@HOTMAIL.COM | (205) 339-8628 |
| Attorney 1 | PUB001 | A-APPOINTED | PUBLIC DEFENDER'S OFFICE | | (205) 349-8200 |

(b) Legal Financial Obligations

Enforcement

Enforcement

Payer: **D001** Enforcement Status: **ACTIVE- PERMITS MAILERS, RECEIPTING OR DA TURNOVER** Placement Status: [REDACTED]

| | | |
|--------------------------------|-----------------------------------|--------------------------------|
| Amount Due: \$4,117.10 | Amount Paid: \$2,422.00 | Balance: \$1,695.10 |
| Due Date: 07/22/2013 | Last Paid Date: 05/19/2014 | Frequency: [REDACTED] |
| Over/Under Paid: \$0.00 | TurnOver Date: 05/13/2009 | TurnOver Amt: \$0.00 |
| PreTrial: YES | PreTrail Date: [REDACTED] | PreTrial Terms: YES |
| Delinquent: YES | Delinquent Date: [REDACTED] | DA Mailer: YES |
| Warrant Mailer: YES | Warrant Mailer Date: [REDACTED] | Last Update: 05/19/2014 |
| Comments: [REDACTED] | | Updated By: TEP |

Financial

Fee Sheet

| Fee Status | Admin Fee | Fee Code | Payor | Payee | Amount Due | Amount Paid | Balance | Amount Hold | Garnish Party |
|------------|-----------|----------|-------|-------|------------|-------------|---------|-------------|---------------|
| ACTIVE | N | D999 | D001 | 000 | \$731.10 | \$731.10 | \$0.00 | \$0.00 | |
| ACTIVE | N | CF71 | D001 | 000 | \$25.00 | \$25.00 | \$0.00 | \$0.00 | |
| ACTIVE | N | CF72 | D001 | 000 | \$25.00 | \$25.00 | \$0.00 | \$0.00 | |
| ACTIVE | N | CF00 | D001 | 000 | \$227.00 | \$227.00 | \$0.00 | \$0.00 | |
| ACTIVE | N | CFW0 | D001 | 000 | \$42.00 | \$42.00 | \$0.00 | \$0.00 | |

Table SA4: Moral Turpitude in Alabama

Note: All felonies are disenfranchising in practice, except those explicitly identified otherwise (column 3).

| Status: Source: Restoration Mechanism: | Disenfranchising Statute ¹ Pardon | Disenfranchising AG ² Certificate | Not Disenfranchising AG Never Lose Vote |
|--|---|--|---|
| | Impeachment Murder Rape in any degree Sodomy in any degree Sexual abuse in any degree Treason Possession of obscene matter Production of obscene matter involving a minor Parents permitting children to engage in obscene matter Possession with intent to distribute child pornography Enticing a child to enter vehicle for immoral purposes Soliciting a child by computer | Aggravated Assault ³ Bigamy ⁵ Conspiracy to commit fraud ⁷ Forgery ⁹ Income tax evasion ¹¹ Manslaughter ¹³ Possession of marijuana for sale ¹⁴ Robbery ¹⁵ Sale of marijuana ¹⁶ Theft ¹⁷ Transport stolen vehicles across state lines ¹⁸ | Assault ⁴ Aiding prisoner to escape ⁶ Doing business without a license ⁸ DUI ¹⁰ Possession of marijuana ¹² Violation of liquor laws |

¹ §15-22-36.1 of the Code of Alabama;

² Each of these crimes are listed in AG opinion 2005-092 and supported by reference to various precedents, which are cited below;

^{3, 13, 17} *Johnson v. State*, 629 So. 2d 708;

^{4, 8, 11, 14, 15} *Ex parte McIntosh*, 443 So. 2d 1283;

⁵ *Lawson v. State*, 33 So. 2d 388;

⁶ *McGovern v. State*, 205 So. 2d 247(1967);

⁷ *G.M. Mosley v. Phillips*, 487 So.2d at 879;

⁹ *Moton v. State*, 69 So. 235 (1915);

¹⁰ *Finley v. State*, 661 So. 2d 762;

¹² *Nearby v. State*, 469 So. 2d 1321;

¹⁶ *Gholston v. State*, 338 So. 2d 454;

¹⁸ *Matthews v. State*, 286 So. 2d 91

Figure SA6: Multiple Ways to Query Alacourt Database

(a) Alacourt Search by Case Number

Case Lookup

County: 04 - AUTAUGA Select a county. (required)

Division: CC - CIRCUIT-CRIMINAL Select a division. (required)

Case Year: 2014 Four digit case year. (required)

Case Number: [input] Ext 00 Six digit Case Number. (required)

Number of Cases: Please Select a Number Select a number to return subsequent cases. (optional)

Search Reset

Case Number: 04 - CC - 2014 - . 00 View Case

(b) Alacourt Search by Party Name

SJIS Party Search Form

Party Name: [input] Last Name First

SSN: [input] Social Security Number (Optional)

Party Type: Plaintiffs Defendants ALL Applies to civil cases only (Optional)

County: Statewide Search Select a county if not statewide.

Division: Criminal Only Select a division if not all divisions.

Date of Birth: [input] Date of Birth

Case Year: Select a year Four digit case year to limit results.

Select a range of filing dates:

From: [input]

To: [input]

No of Records: 100 No. of records to be returned.

Search Reset

Table SA5: Stylized Example of Sample of Application Records Linked to Court Records

| Application Records | | | | | | Court Records | | | | | |
|---------------------|--------|------|-----|----------|------------|---------------|------|----------|---------|----------|-----------|
| Name | | | | Decision | Comment | Race | Sex | LFOs | LFOs | Sentence | Sentence |
| First | Middle | Last | DOB | | | | | Assessed | Balance | Imposed | Suspended |
| ■■■ | ■■■ | ■■■ | ■■■ | Denied | Owes money | Black | Male | \$5030 | \$2510 | 5Y | 0Y |
| ■■■ | ■■■ | ■■■ | ■■■ | Approved | - | White | Male | \$2070 | \$0 | 2Y | 2Y |
| ■■■ | ■■■ | ■■■ | ■■■ | Denied | Owes money | — | — | — | — | — | — |
| ■■■ | ■■■ | ■■■ | ■■■ | Denied | Other | Black | Male | \$4230 | \$4230 | 1Y | 1Y |

Note: Note all variables in our dataset are shown here.

Table SA6: Statute & Classification of LFOs

| Admin. Code | Category | Fee Purpose | Section |
|-------------|------------------|------------------------------------|--|
| R001 | Restitution | - | 15-18-65 through 15-18-78 |
| D999 | Fee | Interest | 12-17-225.4 |
| CF10 | Fine | - | 13A-5-11 |
| CF70 | Fee | Attorneys Fees | 15-12-25 |
| SF10 | Fine | - | 13A-5-11 |
| SF70 | Fee | Attorneys Fees | 15-12-25 |
| R002 | Restitution | - | 15-18-65 through 15-18-78 |
| CF00 | Fee | Docket Fee | 12-19-171 through 12-19-179 |
| SF65 | Fine | - | 13A-12-231 |
| CF65 | Fine | - | 13A-12-231 |
| SF00 | Fee | Docket Fee | 12-19-171 through 12-19-179 |
| CM00 | Fee | Docket Fee | 12-19-171 through 12-19-179 |
| R003 | Restitution | - | 15-18-65 through 15-18-78 |
| SO75 | Fee | Criminal History Fee | 12-19-180 |
| SF73 | Fee | Crime Victims Fund - Discretionary | 15-23-17 |
| B001 | Unclassified LFO | - | 12-19-311 |
| SF30 | Fee | Subpoena Fees | 12-19-171(b) |
| SO15 | Fee | Drug Fee | 12-19-181 |
| CF73 | Fee | Crime Victims Fund - Discretionary | 15-23-17 |
| R004 | Restitution | - | 15-18-65 through 15-18-78 |
| R015 | Restitution | - | 15-18-65 through 15-18-78 |
| ST90 | Fee | Jail Fee | - |
| B003 | Unclassified LFO | - | 12-19-311 |
| CM10 | Fine | - | 13A-5-12 |
| CM60 | Fee | Worthless Check Fees | 12-17-224 |
| CF71 | Fee | Crime Victims Fund | 15-23-17 |
| ST17 | Fine | - | 32-5A-191 |
| CF72 | Fee | Crime Victims Fund | 15-23-17 |
| CM70 | Fee | Attorneys Fees | 15-12-25 |
| SM00 | Fee | Docket Fee | 12-19-171 through 12-19-179 |
| CM61 | Fee | 85% Enhancement | 12-17-224e.1.(i)II. |
| SF71 | Fee | Crime Victims Fund | 15-23-17 |
| DRF3 | Fee | Drug Fee | 12-19-181 |
| SF72 | Fee | Crime Victims Fund | 15-23-17 |
| DRF2 | Fee | Drug Fee | 12-19-181 |
| R008 | Restitution | - | 15-18-65 through 15-18-78 |
| BND2 | Unclassified LFO | - | 12-19-311 |
| R006 | Restitution | - | 15-18-65 through 15-18-78 |
| SM10 | Fine | - | 13A-5-12 |
| B002 | Unclassified LFO | - | 12-19-311 |
| R005 | Restitution | - | 15-18-65 through 15-18-78 |
| SM60 | Fee | Worthless Check Fees | 12-17-224 |
| SF80 | Fee | Preliminary Hearing | 12-19-171(a)(1)e. |
| LCSF | Fee | Solicitor Fee | 12-19-182 |
| R007 | Restitution | - | 15-18-65 through 15-18-78 |
| SFW0 | Fee | Alias Writ | 12-19-171(a)(2)a. |
| SM70 | Fee | Attorneys Fees | 15-12-25 |
| CFW0 | Fee | Alias Writ | 12-19-171(a)(2)a. |
| CADM | Fee | Docket Fee | Act 2012-535 |
| R029 | Restitution | - | 15-18-65 through 15-18-78 |
| CF50 | Fee | Warrant Fee | - |
| SF50 | Fee | Warrant Fee | - |
| R009 | Restitution | - | 15-18-65 through 15-18-78 |
| SM30 | Fee | Subpoena Fees | 12-19-171(b) |
| CF30 | Fee | Subpoena Fees | 12-19-171(b) |
| CM71 | Fee | Crime Victims Fund | 15-23-17 |
| CM72 | Fee | Crime Victims Fund | 15-23-17 |
| R028 | Restitution | - | 15-18-65 through 15-18-78 |
| CF80 | Fee | Preliminary Hearing | 12-19-171(a)(1)e. |
| SWSF | Fee | Solicitor Fee | 12-19-182 |
| DRF1 | Fee | Drug Fee | 12-19-181 |
| SHER | Fee | Sherriff's Service Fee | Const Amend 661; 45-25-81.60(Dekalb County) |
| ST15 | Fee | Head Injury Fee | 32-5A-191(m) |
| R023 | Restitution | - | 15-18-65 through 15-18-78 |
| R011 | Restitution | - | 15-18-65 through 15-18-78 |
| R022 | Restitution | - | 15-18-65 through 15-18-78 |
| R013 | Restitution | - | 15-18-65 through 15-18-78 |
| CM65 | Fine | - | 13A-12-231 |
| R020 | Restitution | - | 15-18-65 through 15-18-78 |
| R012 | Restitution | - | 15-18-65 through 15-18-78 |
| R018 | Restitution | - | 15-18-65 through 15-18-78 |
| R019 | Restitution | - | 15-18-65 through 15-18-78 |
| R016 | Restitution | - | 15-18-65 through 15-18-78 |
| R017 | Restitution | - | 15-18-65 through 15-18-78 |
| CM73 | Fee | Crime Victims Fund - Discretionary | 15-23-17 |
| CF40 | Unclassified LFO | - | 12-19-171(a) |

Table SA7: Share of LFOs by Type and Accounting

| LFO Category | Averaging | Completed Sentence | | All Persons | |
|--------------|-----------|--------------------|------------------|-----------------|------------------|
| | | No Traffic LFOs | Yes Traffic LFOs | No Traffic LFOs | Yes Traffic LFOs |
| Fee | By Dollar | 0.44 | 0.42 | 0.49 | 0.46 |
| Fee | By Person | 0.57 | 0.57 | 0.57 | 0.57 |
| Fine | By Dollar | 0.19 | 0.18 | 0.20 | 0.19 |
| Fine | By Person | 0.15 | 0.15 | 0.16 | 0.16 |
| Restitution | By Dollar | 0.32 | 0.30 | 0.26 | 0.24 |
| Restitution | By Person | 0.16 | 0.16 | 0.13 | 0.13 |
| Unclassified | By Dollar | 0.06 | 0.09 | 0.05 | 0.11 |
| Unclassified | By Person | 0.11 | 0.11 | 0.13 | 0.13 |

Table SA8: Distribution of LFOs by Person

| | Sample Size | Estimated Population | Amount Due by Quantile | | | Balance by Quantile | | | % Balance Remaining |
|------------------|-------------|----------------------|------------------------|------------------|-------------------|---------------------|------------------|------------------|---------------------|
| | | | 25 th | 50 th | 75 th | 25 th | 50 th | 75 th | |
| All | 2924 | 113,370 (801) | 2,521 (91) | 5,349 (147) | 11,500 (331) | 815 (77) | 3,523 (130) | 9,224 (315) | 0.852 (0.007) |
| Public Defender: | | | | | | | | | |
| Yes | 1999 | 76,399 (671) | 2,633 (111) | 5,524 (181) | 11,543 (386) | 1,333 (99) | 3,815 (156) | 9,530 (365) | 0.886 (0.008) |
| No | 925 | 36,971 (435) | 2,209 (155) | 5,072 (258) | 11,409 (635) | 42 (122) | 2,831 (226) | 8,171 (544) | 0.779 (0.011) |
| Difference | | | 424 [0.026] | 452 [0.151] | 134 [0.857] | 1,291 [0.000] | 984 [0.000] | 1,359 [0.038] | 0.107 [0.000] |
| Black: | | | | | | | | | |
| Yes | 1365 | 52,937 (541) | 2,452 (133) | 5,290 (214) | 10,702 (413) | 1,312 (120) | 3,789 (188) | 9,226 (393) | 0.897 (0.010) |
| No | 1559 | 60,433 (590) | 2,544 (124) | 5,436 (205) | 12,175 (501) | 436 (99) | 3,188 (175) | 9,224 (509) | 0.812 (0.009) |
| Difference | | | -92 [0.615] | -146 [0.622] | -1,473 [0.023] | 876 [0.000] | 601 [0.019] | 2 [0.998] | 0.085 [0.000] |

Note: This table replicates Table 2 but includes all persons, regardless of whether they completed their maximal sentence. This is the sample is most directly comparable to Harris, Evans, and Beckett (2010).

Table SA9: Distribution of LFOs by Person

| | Sample Size | Estimated Population | Amount Due by Quantile | | | Balance by Quantile | | | % Balance Remaining |
|------------------|-------------|----------------------|------------------------|------------------|------------------|---------------------|------------------|------------------|---------------------|
| | | | 25 th | 50 th | 75 th | 25 th | 50 th | 75 th | |
| All | 1005 | 45,380 (360) | 2,357 (150) | 4,884 (206) | 8,979 (339) | 372 (113) | 2,390 (151) | 5,709 (271) | 0.854 (0.011) |
| Public Defender: | | | | | | | | | |
| Yes | 662 | 30,004 (290) | 2,346 (185) | 4,978 (257) | 9,052 (418) | 729 (142) | 2,663 (187) | 6,127 (356) | 0.881 (0.014) |
| No | 343 | 15,377 (214) | 2,387 (258) | 4,827 (349) | 8,919 (589) | 108 (173) | 1,683 (232) | 5,118 (454) | 0.801 (0.019) |
| Difference | | | -41 [0.897] | 151 [0.728] | 133 [0.854] | 621 [0.006] | 980 [0.001] | 1,009 [0.081] | 0.080 [0.001] |
| Black: | | | | | | | | | |
| Yes | 431 | 19,266 (239) | 2,290 (227) | 4,739 (311) | 8,870 (506) | 711 (180) | 2,958 (248) | 6,462 (470) | 0.878 (0.017) |
| No | 574 | 26,114 (270) | 2,369 (202) | 4,998 (276) | 9,052 (456) | 226 (144) | 2,133 (191) | 5,456 (348) | 0.836 (0.015) |
| Difference | | | -79 [0.795] | -259 [0.533] | -182 [0.790] | 485 [0.036] | 825 [0.009] | 1,006 [0.085] | 0.042 [0.061] |

Note: This table replicates Table 2 but includes LFOs accrued in traffic cases.

Table SA10: Alabama Applications for Restoration of Voting Rights

| | Sample Size | Population Size | Application % | Application Denied for LFOs | Voting Rights Never Lost | Application Other Status | LFOs Denial Rate |
|------------------|-------------|-----------------|-------------------|-----------------------------|--------------------------|--------------------------|------------------|
| All Applications | | 25,961 | 0.402 | 0.202 | 0.171 | 0.217 | 0.334 |
| All in Alacourt | 632 | 18,560 (388) | 0.358 (0.019) | 0.288 (0.018) | 0.169 (0.015) | 0.186 (0.016) | 0.447 (0.025) |
| Public Defender | | | | | | | |
| Yes | 303 | 8,898 (408) | 0.333 (0.028) | 0.358 (0.026) | 0.137 (0.022) | 0.173 (0.023) | 0.520 (0.035) |
| No | 329 | 9,662 (415) | 0.381 (0.027) | 0.224 (0.025) | 0.199 (0.021) | 0.198 (0.022) | 0.371 (0.035) |
| Difference | | | -0.047 [0.220] | 0.135 [0.000] | -0.062 [0.040] | -0.025 [0.433] | 0.149 [0.003] |
| Black | | | | | | | |
| Yes | 340 | 9,985 (418) | 0.282 (0.026) | 0.368 (0.025) | 0.149 (0.021) | 0.203 (0.021) | 0.568 (0.033) |
| No | 292 | 8,575 (404) | 0.446 (0.028) | 0.196 (0.026) | 0.192 (0.022) | 0.167 (0.023) | 0.306 (0.036) |
| Difference | | | -0.164 [0.000] | 0.172 [0.000] | -0.043 [0.153] | 0.036 [0.256] | 0.262 [0.000] |

Table SA11: Reasons Applications Neither Granted Nor Denied Due to LFOs

| | Number | Share |
|---|--------|--------|
| Did Not Lose Voting Rights | 4373 | 43.52% |
| Ineligible – Under Supervision | 1522 | 15.15% |
| Other Category | 1225 | 12.19% |
| Ineligible – Out of State | 1088 | 10.83% |
| Ineligible – Crime | 820 | 8.16% |
| More Information Needed | 444 | 4.42% |
| Ineligible – Pending Case | 192 | 1.91% |
| Ineligible – No Details | 142 | 1.41% |
| Voting Rights Not Requested | 129 | 1.28% |
| Ineligible – Outstanding LFOs and Under Supervision | 114 | 1.13% |