

CALIFORNIANS WITH A FELONY  
CONVICTION ARE NOW ELIGIBLE FOR  
JURY SERVICE:  
HOW WOULD THEY KNOW?

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## INTRODUCTION

The federal government, the District of Columbia, and every state but Maine restrict juror eligibility for those with a felony criminal history.<sup>1</sup> To justify these restrictions, courts and policymakers contend that those with a felony conviction, if allowed to serve, would threaten the integrity of the jury process.<sup>2</sup> But empirical evidence undermines this claim, strongly suggesting that the inclusion of those with a felony criminal history may actually benefit the jury.<sup>3</sup>

California recently passed Senate Bill 310 (S.B. 310), which restores juror eligibility to most people with a felony criminal conviction.<sup>4</sup> Except for those currently on active state supervision or on the sex offender registry, Californians with a felony criminal history are now automatically eligible for jury service once their sentence is complete.<sup>5</sup> The measure was signed into law in October of 2019 and became effective on January 1, 2020.<sup>6</sup>

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<sup>1</sup> See James M. Binnall, *A Field Study of the Presumptively Biased: Is There Empirical Support for Excluding Convicted Felons from Jury Service?*, 36 L. & POL'Y 1, 4-5 (2014). See also Brian C. Kalt, *The Exclusion of Felons from Jury Service*, 53 AM. U. L. REV. 65, 150-58 (2003).

<sup>2</sup> See, e.g., *Rubio v. Superior Court of San Joaquin Cty.*, 593 P.2d 595, 600-01 (Cal. 1979) (the inherent bias rationale). See also *Carle v. United States*, 705 A.2d 682, 686 (D.D.C. 1998) (the character or probity rationale).

<sup>3</sup> See Binnall, *supra* note 1. See also James M. Binnall, *Cops and Convicts: An Exploratory Study of Jurymandering*, 16 OHIO ST. J. CRIM. L. 221 (2018); James M. Binnall, *Exorcising Presumptions: Judges and Attorneys Contemplate "Felon-Juror Inclusion" in Maine*, 39 JUST. SYS. J. 378 (2018); James M. Binnall, *Felon-Jurors in Vacationland: A Field Study of Transformative Civic Engagement in Maine*, 71 ME. L. REV. 71, 74 (2018); James M. Binnall, *Summoning Criminal Desistance: Convicted Felons' Perspectives on Jury Service*, 43 L. & SOC. INQUIRY 4 (2018); James M. Binnall, *Jury Diversity in the Age of Mass Incarceration: An Exploratory Mock Jury Experiment Examining Felon-Jurors' Potential Impacts on Deliberations*, 25 PSYCHOL., CRIME & L. 345 (2019); James M. Binnall & Nick Petersen, *Building Biased Jurors: Exposing the Circularity of the Inherent Bias Rationale for Felon-Juror Exclusion*, 27 PSYCHIATRY, PSYCHOL. & L. 110 (2020).

<sup>4</sup> Before S.B. 310, California had permanently excluded individuals with a felony conviction from the jury process. CAL. CIV. PROC. CODE § 203(a)(5) (West 2019), repealed in 2020 ("All persons are eligible and qualified to be prospective trial jurors, except the following . . . [p]ersons who have been convicted of malfeasance in office or a felony, and whose civil rights have not been restored.").

<sup>5</sup> See CAL. CIV. PROC. CODE § 203(a)(10) (West 2020) (All persons are eligible and qualified to be prospective trial jurors, except the following . . . [p]ersons who have been convicted of a felony and are currently on parole, postrelease community supervision, felony probation, or mandated supervision for the conviction of a felony."); CAL. CIV. PROC. CODE § 203(a)(11) (West 2020) (All persons are eligible and qualified to be prospective trial jurors, except the following . . . [p]ersons who are currently required to register as a sex offender pursuant to Section 290 of the Penal Code based on a felony conviction.").

<sup>6</sup> *Governor Newsom Signs Criminal Justice Bills to Support Reentry, Victims of Crime, and Sentencing Reform*, CAL. OFFICE GOVERNOR (Oct. 8, 2019), <https://perma.cc/5PGX-HWHS>.

Though the exclusion of those with a felony conviction from jury service has been historically understudied,<sup>7</sup> in recent years, “record-based”<sup>8</sup> voter restrictions have garnered significant attention from scholars, activists, and lawmakers.<sup>9</sup> That attention has led to reform in this area, most recently in Florida, where voters approved a referendum restoring the right to vote to those convicted of a felony offense.<sup>10</sup> Still, such reform efforts may not lead to an increase in political participation among those with criminal justice system involvement.<sup>11</sup> Instead, research tends to show that restoration efforts often have little impact on subsequent voting behavior, in large part because of misinformation and confusion among those with criminal justice system involvement about voter eligibility statutes.<sup>12</sup> Studies also reveal that even government personnel charged with overseeing elections are largely uninformed about their jurisdiction’s policies regarding the voting rights of those with a criminal conviction.<sup>13</sup> In an attempt to combat such uncertainty and to increase voter turnout, many jurisdictions have chosen to include

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<sup>7</sup> See Kalt, *supra* note 1, at 67 (“Perhaps more surprising is that scholars have ignored ‘felon exclusion’ despite a mass of legislation and appellate litigation, and despite the glaring racial disparities. On the rare occasions when felon exclusion is mentioned, commentators are oddly sanguine about it, even if they are otherwise strong advocates of felons’ rights or broad jury participation.”) (citing a variety of sources that discuss juror discrimination without mentioning the exclusion of those with a felony conviction).

<sup>8</sup> Throughout this article, we use the phrase “record-based” to indicate restrictions on voting or jury service that are imposed because one has a felony criminal conviction.

<sup>9</sup> See KATHERINE IRENE PETTUS, *FELONY DISENFRANCHISEMENT IN AMERICA: HISTORICAL ORIGINS, INSTITUTIONAL RACISM, AND MODERN CONSEQUENCES* (2nd rev. ed. 2013) (providing a detailed overview of research on record-based voter disenfranchisement); PIPPA HOLLOWAY, *LIVING IN INFAMY: FELON DISENFRANCHISEMENT AND THE HISTORY OF AMERICAN CITIZENSHIP* (2014); JEFF MANZA & CHRISTOPHER UGGEN, *LOCKED OUT: FELON DISENFRANCHISEMENT AND AMERICAN DEMOCRACY* (2008); James M. Binnall & Nick Petersen, *Public Perceptions of Felon-Juror Exclusion: An Exploratory Study*, *J. CRIMINOLOGY & CRIM. JUST. (SPECIAL ISSUE)* 1 (2020).

<sup>10</sup> See *Felon Voting Rights*, NAT’L CONF. STATE LEGISLATURES (July 28, 2020), <https://perma.cc/F9GA-CYM7>.

<sup>11</sup> See Traci Burch, *Turnout and Party Registration Among Criminal Offenders in the 2008 General Election*, 45 *L. & SOC’Y REV.* 699-730 (2011); Michael V. Haselswerdt, *Con Job: An Estimate of Ex-Felon Voter Turnout Using Document-Based Data*, 90 *SOC. SCI. Q.* 262-73 (2009).

<sup>12</sup> Ernest Drucker & Ricardo Barreras, *The Sentencing Project, Studies of Voting Behavior and Felony Disenfranchisement Among Individuals in the Criminal Justice System in New York, Connecticut, and Ohio* (2005), <https://perma.cc/6Y5V-BK8X>.

<sup>13</sup> See Alec. C. Ewald, *The Sentencing Project, A “Crazy-Quilt” of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law* (2005), <https://perma.cc/Y9PV-B4RB>; Jessie Allen, *Documentary Disenfranchisement*, 86 *TUL. L. REV.* 389 (2011).

provisions mandating notification.<sup>14</sup> Still, the impact of notification is uncertain.<sup>15</sup> Research tends to demonstrate that a type of de facto disenfranchisement persists even in the face of more inclusive legislation.<sup>16</sup>

Informed by prior research on record-based voter disenfranchisement, this article explores how California is notifying its residents with a felony criminal conviction who are now juror eligible under S.B. 310. With the passage of S.B. 310, millions of Californians are newly eligible for jury service.<sup>17</sup> Proponents of S.B. 310 argue that the measure will appropriately reshape jury pools to include those with criminal justice system experience, ensuring that juries more accurately represent the communities from which they are drawn.

Still, the prospective impact of S.B. 310 is unclear. Preliminarily, nothing is known about how the legislative change is being communicated to California's system involved populace. Taking advantage of the timing of S.B. 310's enactment, this article explores that question.

Part II provides background on the practice of excluding those with a felony conviction from jury service. Part III then reviews prior research on de facto voter disenfranchisement. Part IV details the approaches to notification taken by California counties in the wake of S.B. 310, describing the methods and results of our recent survey. Part V discusses previous studies of notification requirements, suggesting that to ensure full civic participation by those with a felony criminal conviction – mandatory, empirically informed procedures for the adequate dissemination of information are necessary in California. Part VI concludes by highlighting the importance of an inclusive jury system and the benefits of including those with experiential diversity.

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<sup>14</sup> See Marc Meredith & Michael Morse, *Do Voting Rights Notification Laws Increase Ex-Felon Turnout?* 651 ANNALS ACAD. POL. & SOC. SCI. L. REV. 220, 221 (2014).

<sup>15</sup> See *id.*

<sup>16</sup> Marc Meredith & Michael Morse, *The Politics of the Restoration of Ex-Felon Voting Rights: The Case of Iowa*, 10 Q. J. OF POL. SCI. 41 (2015).

<sup>17</sup> Sarah K. S. Shannon et al., *The Growth, Scope, and Spatial Distribution of People with Felony Records in the United States, 1948-2010*, 54 DEMOGRAPHY 1795 (2017).

## I. RECORD-BASED JUROR ELIGIBILITY STATUTES: A PRIMER

In all but a single U.S. jurisdiction (Maine), people with a felony conviction are restricted from serving on a jury.<sup>18</sup> In twenty-seven jurisdictions, such restrictions are permanent.<sup>19</sup> In remaining jurisdictions, restrictions vary:

- Thirteen states exclude individuals until the full completion of their sentence, notably disqualifying those serving felony-parole and felony-probation.<sup>20</sup>
- Eight states enforce hybrid regulations that may incorporate penal status, charge category, type of jury proceeding, and/or a term of years.<sup>21</sup> For example, the District of Columbia and Colorado adhere to differing hybrid models; the former excludes those with a felony conviction from jury service during any period of supervision and for ten years following the termination of supervision, while the latter excludes individuals with a felony conviction from only grand jury proceedings.<sup>22</sup>
- And finally, two states recognize lifetime for cause challenges, permitting a trial judge to dismiss a prospective juror from the venire solely on the basis of a felony conviction.<sup>23</sup>

Only Maine places no record-based restrictions on juror eligibility.<sup>24</sup>

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<sup>18</sup> See JAMES M. BINNALL, TWENTY MILLION ANGRY MEN: THE CASE FOR INCLUDING CONVICTED FELONS IN OUR JURY SYSTEM, at app. A (forthcoming 2021).

<sup>19</sup> *Id.* (Permanent jurisdictions include: Federal, Alabama, Arkansas, Delaware, Florida, Georgia, Hawaii, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, and Wyoming).

<sup>20</sup> *Id.* (Completion of sentence jurisdictions include: Alaska, Idaho, Indiana, Minnesota, Montana, New Mexico, North Carolina, North Dakota, Ohio, Rhode Island, South Dakota, Washington, and Wisconsin).

<sup>21</sup> *Id.* (Hybrid jurisdictions include: Arizona, California, Colorado, Connecticut, District of Columbia, Kansas, Massachusetts, Nevada, and Oregon).

<sup>22</sup> See Jury Plan for the Superior Court of the District of Columbia § 6(g) (2013), <https://perma.cc/95GY-5CPU> (“individuals disqualified for jury service by reason of a felony conviction are qualified for jury service ten years after the completion of their entire sentence, including incarceration, probation and parole, or at such time as their civil rights have been restored.”); see also COLO. REV. STAT. § 13-71-105(3) (2019) (“A prospective grand juror shall be disqualified if he or she has previously been convicted of a felony in this state, any other state, the United States, or any territory under the jurisdiction of the United States.”).

<sup>23</sup> See Binnall, *supra* note 18 (Lifetime challenges for cause jurisdictions include: Illinois and Iowa).

<sup>24</sup> Maine’s juror eligibility statute makes no mention of the criminal histories of prospective jurors. See ME. REV. STAT. ANN. tit. 14, § 1211 (2017) (“A prospective juror is disqualified to serve on a jury if that prospective juror is not a citizen of the United States, 18

Across jurisdictions, the application of record-based juror exclusion statutes is relatively consistent. Only four jurisdictions tailor such statutes, distinguishing:

- first-time offenders from repeat offenders (Arizona),<sup>25</sup>
- those with a violent criminal offense from those with a non-violent criminal offense (Nevada),<sup>26</sup>
- grand juries from petit juries (Colorado),<sup>27</sup> and
- civil cases from criminal cases (Oregon).<sup>28</sup>

In all remaining jurisdictions, such statutes are categorical, applying to *all* prospective jurors with a prior felony conviction in *all* types of proceedings.

Legislators and courts typically cite two justifications for these categorical exclusions. Both are allegedly prophylactic, as they emphasize the protection of the jury system as the primary goal of the practice.<sup>29</sup> The first alleges that those with a felony conviction lack the requisite character to appropriately adjudicate a litigated matter.<sup>30</sup> The second assumes that individuals with a felony criminal history would undermine the impartiality of a jury, as they purportedly harbor an inherent bias, making each sympathetic to criminal defendants and adversarial toward prosecutorial agents.<sup>31</sup> Taken together, these proffered justifications for exclusion suggest that citizens with a felony criminal conviction, if allowed to serve, would disrupt and undermine the integrity of our jury system. No empirical evidence supports this contention.<sup>32</sup> Instead, evidence strongly suggests that jurors who have been convicted of a felony approach jury service conscientiously, adding value to, rather than detracting from, the process.<sup>33</sup>

A third rationale for excluding people with felony convictions from jury service, rarely cited by courts or lawmakers, finds its roots in John Locke's

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years of age and a resident of the county, or is unable to read, speak and understand the English language.”).

<sup>25</sup> See Binnall, *supra* note 18, at app. A note 4.

<sup>26</sup> *Id.* at app. A note 30.

<sup>27</sup> COLO. REV. STAT. § 13-71-105(3) (2019).

<sup>28</sup> See Binnall, *supra* note 18, at app. A note 39.

<sup>29</sup> See Kalt, *supra* note 1, at 73-75.

<sup>30</sup> See Binnall, *supra* note 18; Kalt, *supra* note 1 at n.29 (cataloguing cases referencing the character or probity rationale).

<sup>31</sup> Kalt, *supra* note 1 at n.30 (cataloguing cases referencing the inherent bias rationale).

<sup>32</sup> *Id.* (detailing the results of the first mock jury experiment to include jurors with a felony conviction; findings reveal that inclusion spawned no negative impact on the functionality or substance of deliberations.). See also Binnall (2019), *supra* note 3 (detailing the results of the same experiment); Binnall, *supra* note 18, at chs. 3-4 (same).

<sup>33</sup> Kalt, *supra* note 1 at n.30 (detailing the results of the first mock jury experiment to include jurors with a felony conviction). See also Binnall (2019), *supra* note 3 (same); Binnall, *supra* note 18, at chs. 3-4 (same).

theory of the social contract.<sup>34</sup> Far more philosophical than instrumental, the “neo-contractarian”<sup>35</sup> theory of felon-juror exclusion – like early “civil death” statutes – seems to hold that those with a felony conviction “deserve” banishment from public life simply because they have committed a criminal offense. As scholars have noted in the context of record-based voter disqualifications, the social contract justification fails on several grounds, as it is incompatible with modern conceptualizations of the social contract,<sup>36</sup> ignores important modern liberal values,<sup>37</sup> and violates Locke’s own proportionality principle governing state sanctioned punishment.<sup>38</sup>

An additional motivation for record-based juror eligibility relates to race. Historically, record-based juror exclusion statutes were used to intentionally prevent racial minorities from serving as jurors.<sup>39</sup> Though the U.S. Supreme Court forbade race-based juror eligibility in 1879 in *Strauder v. West Virginia*,<sup>40</sup> racial discrimination in jury selection persisted – especially in southern states.<sup>41</sup> In those jurisdictions, the *Strauder* decision was largely

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<sup>34</sup> See *Green v. Bd. of Elections of N.Y.C.*, 380 F.2d 445, 451 (2d Cir. 1967) (noting “A man who breaks the laws he has authorized his agent to make for his own governance could fairly have been thought to have abandoned the right to participate in further administering the compact. On a less theoretical plane, it can scarcely be deemed unreasonable for a state to decide that perpetrators of serious crimes shall not take part in electing the legislators who make the laws, the executives who enforce these, the prosecutors who must try them for further violations, or the judges who are to consider their cases.”).

<sup>35</sup> See generally Pettus, *supra* note 9.

<sup>36</sup> Note, *The Disenfranchisement of Ex-Felons: Citizenship, Criminality, and the ‘Purity of the Ballot Box.’* 102 HARV. L. REV. 1300, 1306 (1989) (“Disenfranchisement, however, is incompatible with broader, more modern conceptions of the social contract. If the goal of the contract is not simply to suppress individuals’ ugliest impulses but also to promote human freedom and development, then a single criminal transgression should not be understood to repudiate the social contract as a whole.”) (citations omitted).

<sup>37</sup> *Id.* (“Modern liberal thought posits that, prior to the social contract, individuals have fundamental rights and liberties that allow them to bargain freely but that cannot be freely bargained away. According to Rawls’ first principle of justice, for example, ‘all citizens are to have an equal right to take part in, and to determine the outcome of, the constitutional process that establishes the laws with which they are to comply.’ The disenfranchisement of ex-offenders violates this basic tenet of modern liberalism.”) (citations omitted).

<sup>38</sup> *Id.* at 1306-1307 (“‘Each transgression,’ Locke explained, ‘may be punished to that degree, and with so much severity, as will suffice to make it an ill bargain to the offender, give him cause to repent, and terrify others from doing the like.’ Disenfranchisement for life fails to meet this standard: permanent expulsion from the political community is imposed equally on all felons without regard for the relative severity of their crimes, and is wholly disproportionate to a single violation.”) (citations omitted).

<sup>39</sup> See Michael J. Klarman, *The Plessy Era*. 1998 SUP. CT. REV. 303, 352-53, 370-78 (1998); MICHAEL J. KLARMAN, FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL INEQUALITY (2004).

<sup>40</sup> *Strauder v. West Virginia*, 100 U.S. 303 (1879).

<sup>41</sup> See Klarman (1998), *supra* note 39 at 370-78.

“nullified through the use of ‘subconstitutional’ rules bearing on standards of proof, standards of appellate review, and access to federal court.”<sup>42</sup> Another method of subverting *Strauder* included the imposition of vague juror eligibility requirements demanding that prospective jurors possess “sound judgment and fair character.”<sup>43</sup> Originally aimed at African-American jurors, these early record-based juror exclusions have withstood the test of time, bucking the general trend toward more inclusive jury systems.<sup>44</sup> Today, notwithstanding intent, such statutes have been found to have a disparate racial impact in at least one jurisdiction.<sup>45</sup>

Perhaps recognizing the flawed premises on which record-based juror exclusion rest, and their racially discriminatory impact, a number of jurisdictions have recently contemplated legislation repealing such provisions - California,<sup>46</sup> New York,<sup>47</sup> and Louisiana.<sup>48</sup> Of the three, only California’s initiative was successful, altering record-based juror eligibility criteria drastically.

## 2. DE FACTO DISENFRANCHISEMENT

Since the contested 2000 presidential election that arguably turned on record-based voter disenfranchisement in Florida,<sup>49</sup> the exclusion of those with a felony criminal conviction from the electoral process has gained widespread attention.<sup>50</sup> That attention has led to concerted efforts to repeal such restrictions.<sup>51</sup> For activists, the repeal of record-based voting restrictions offers

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<sup>42</sup> *Id.* at 377.

<sup>43</sup> *Williams v. Mississippi*, 170 U.S. 213, 217 n.1 (1898).

<sup>44</sup> Kalt, *supra* note 1 at 189 (“The practice of excluding felons from jury service has both a rich pedigree and a sturdy presence in current law. Felon exclusion has evolved from being a product of subjective juror qualifications or anti-criminal common-law rules into being a product of objective statutes. In the process, it has become firmly entrenched and has avoided the general trend of expanded jury participation.”).

<sup>45</sup> See, e.g., Darren Wheelock, *A Jury of One’s “Peers”*: *The Racial Impact of Felon Jury Exclusion in Georgia*, 32 JUST. SYS. J. 335 (2012).

<sup>46</sup> Debra Cassens Weiss, *New California Law Allows Felons Who Served Their Time to Serve on Juries*, ABA J. (Oct. 11, 2019, 12:09 PM CDT), <https://perma.cc/6SRB-Z93A>.

<sup>47</sup> Bill Mahoney, *Senate Passes Bill to Let Felons Serve on Juries*, POLITICO (May 7, 2019, 6:30 PM EDT), <https://perma.cc/3KMF-Y8AN>.

<sup>48</sup> Bryn Stole, *Louisiana Lawmakers Shoot Down Bill to Allow Those With Past Felony Convictions to Serve on Juries*, ADVOCATE (updated May 13, 2019, 6:46 PM), <https://bit.ly/3dtdNbX>; Jacob Rosenberg, *Jury Duty Is the Next Big Step for Felons’ Rights*, MOTHER JONES (May 21, 2019), <https://perma.cc/JA5R-JE69>.

<sup>49</sup> See Manza & Uggen, *supra* note 9; see also *Bush v. Gore*, 531 U.S. 98 (2000).

<sup>50</sup> See *supra* note 9.

<sup>51</sup> See Binnall & Petersen, *supra* note 9.

the prospect of a more inclusive electorate and broader civic participation among those who have had contact with the criminal justice system.<sup>52</sup>

Yet, voter turnout among the U.S. population of those with a felony conviction remains low.<sup>53</sup> Early studies of the topic placed predicted voter turnout among those with a felony criminal conviction at 35%.<sup>54</sup> Subsequent research calls those rates into question, suggesting that when more rigorous methodologies are employed, voter turnout is far lower than initially believed. For example, two studies revealed that turnout of eligible voters with a felony conviction stood at 10% - 15% and 5% - 9% respectively.<sup>55</sup> Moreover, in the 2008 presidential election – an election with historically high rates of voting – one study estimated a 22% turnout rate for those with a felony criminal history.<sup>56</sup> Taken together, these findings suggest that turnout among the population of eligible voters with a felony criminal conviction is exceedingly low.<sup>57</sup>

Generally, three reasons are given for a lack of voter turnout among those with a felony criminal history. The first suggests that perhaps some of the same personal characteristics that lead to criminal activity are also those that lead to lower rates of voting.<sup>58</sup> Some studies tend to show that those with a felony conviction “may participate less not because they have been convicted of a crime, but because the same choices and circumstances that eventually lead to a felony conviction also explain reduced levels of political participation.”<sup>59</sup> Some

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<sup>52</sup> *But see* James M. Binnall, *A “Meaningful” Seat at the Table: Contemplating Our Ongoing Struggle to Access Democracy*, 73 SMU L. REV. F. 35 (2020); James M. Binnall & Nick Petersen, *They’re Just Different: The Bifurcation of Public Attitudes Toward Felon-Jurors Convicted of Violent Offenses*, CRIME, L. & SOC. CHANGE (forthcoming 2020) (both noting that reforms tend to focus on those non-violent, non-problematic offenses, calling into question their efficacy).

<sup>53</sup> *See* Traci Burch, *Punishment and Participation: How Criminal Convictions Threaten American Democracy* (2007) (unpublished Ph.D. dissertation, Harvard University); Traci Burch, *Did Disfranchisement Laws Help Elect President Bush? New Evidence on the Turnout Rates and Candidate Preferences of Florida’s Ex-Felons*, 34 POL. BEHAV. (SPECIAL ISSUE) 1 (2012); Burch, *supra* note 11; Haselswerdt, *supra* note 11.

<sup>54</sup> Jeff Manza & Christopher Uggen, *Punishment and Democracy: Disenfranchisement of Nonincarcerated Felons in the United States*, 2 PERSP. ON POL. 491, 496 (2004).

<sup>55</sup> *See* Burch, *supra* note 52 (2007); Haselswerdt, *supra* note 11 at 268-69.

<sup>56</sup> *See* Burch, *supra* note 11.

<sup>57</sup> *See* Thomas J. Miles, *Felon Disenfranchisement and Voter Turnout* 33 J. LEGAL STUD. 85 (2004).

<sup>58</sup> Alan S. Gerber et al., *Can Incarcerated Felons Be (Re)integrated Into the Political System? Results From a Field Experiment*, 59 AM. J. POL. SCI. 912, 914 (2015).

<sup>59</sup> *Id.* at 914.

of those factors may include income, race, age, education, and the likelihood of experiencing unemployment.<sup>60</sup>

A second proffered reason for low voter turnout among those with a felony conviction holds that contact with the criminal justice system leads to feelings of distrust in governmental agencies and processes.<sup>61</sup> Perhaps not surprisingly, most citizens characterize contacts with the criminal justice system as negative.<sup>62</sup> Importantly, these negative views typically then take on a global quality, as those who endure mistreatment at the hands of a discreet entity often transfer their negative views to “the system” or “the government” more generally.<sup>63</sup> In this way, in certain circumstances, contact with the criminal justice system can lead to a sense of “anticipatory injustice” that can blunt civic engagement.<sup>64</sup>

The final oft-cited explanation for low voter turnout suggests that a lack of information and misinformation – the focus of this article – have led to confusion among those with a felony criminal history.<sup>65</sup> Several studies reveal an alarming rate of misperception about voting rights – both for those with a criminal history and for government actors charged with administering elections. For example, in a 2005 study focused on three jurisdictions that do not disenfranchise, 50% of respondents (those in custody or on parole/probation) did not know that probationers are permitted to vote and 52.8% did not know if ever having a felony conviction made one ineligible to cast a ballot.<sup>66</sup> Perhaps more troubling, among those who had never been disenfranchised, 33.1% did not know if they were currently allowed to vote and 10.2% believed they were ineligible.<sup>67</sup>

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<sup>60</sup> See Miles, *supra* note 57, at 115-16.

<sup>61</sup> See Vesla M. Weaver & Amy E. Lerman, *Political Consequences of the Carceral State*, 104 AM. POL. SCI. REV. 817 (2010).

<sup>62</sup> See Claudio G. Vera Sanchez & Ericka B. Adams, *Sacrificed on the Altar of Public Safety: The Policing of Latino and African American Youth*, 27 J. CONTEMP. CRIM. JUST. 322 (2011); Rod K. Brunson & Jody Miller, *Young Black Men and Urban Policing in the United States*, 46 BRITISH J. OF CRIM. 614 (2006).

<sup>63</sup> See Joe Soss, *Making Clients and Citizens: Welfare Policy as a Source of Status, Belief, and Action*, in *DESERVING AND ENTITLED: SOCIAL CONSTRUCTIONS AND PUBLIC POLICY* 291, 291 (Anne L. Schneider & Helen M. Ingram eds., 2005); Jennifer L. Lawless & Richard L. Fox, *Political Participation of the Urban Poor*, 48 SOC. PROBS. 362 (2001).

<sup>64</sup> Prior research demonstrates that perceptions of the police and government generally can influence civic engagement negatively in minority and low income communities. See Debra L. Shapiro & Bradley L. Kirkman, *Anticipatory Injustice: The Consequences of Expecting Injustice in the Workplace*, in *ADVANCES IN ORGANIZATIONAL JUSTICE* 152, 152 (Jerald Greenberg & Russell Cropanzano eds., 2001); Jennifer L. Woolard et al., *Anticipatory Injustice Among Adolescents: Age and Racial/Ethnic Differences in Perceived Unfairness of the Justice System*, 26 BEHAV. SCI. & L. 207 (2008).

<sup>65</sup> See Drucker & Barreras, *supra* note 12; Ewald, *supra* note 13; Meredith & Morse, *supra* note 14; Meredith & Morse, *supra* note 16.

<sup>66</sup> See Drucker & Barreras, *supra* note 12, at 8.

<sup>67</sup> *Id.*

Government actors also are often ill informed about disenfranchisement laws and restoration procedures. For instance, one study found that in ten states, 37% of local officials “either described their state’s fundamental eligibility law incorrectly, or stated that they did not know a central aspect of that law.”<sup>68</sup> This lack of knowledge about voter disenfranchisement restrictions may also spawn the implementation of additional barriers to participation. In a study of New York county election officials, researchers discovered:

In almost half the counties in New York, including all five boroughs of New York City, officials demanded documentary proof that the person seeking to register after a felony conviction had completed his sentence. New York election statutes impose no such requirement that previously disenfranchised voters document their eligibility. Not only that, in many cases the documents county boards requested were entirely fictional.<sup>69</sup>

Overall, studies of record-based voter restrictions highlight a stunning level of de facto disenfranchisement fueled by notification failures and active presentations of misinformation by government officials. This study evaluates the emergence of a similar phenomenon in the context of record-based juror eligibility provisions. As the first jurisdiction in the United States to restore juror eligibility to those with a felony criminal history in nearly two decades, California offers an optimal case study on de facto juror exclusion.

Of note, California’s new juror eligibility statute – S.B. 310 – does not require counties to notify prospective jurors about the legislative change. Instead, the Judicial Council of California – the rule making body of the California Court system – did provide some degree of guidance to the local courts by updating their “juror qualifications” webpage to include juror eligibility information that reflected the changes to statute made by S.B. 310.<sup>70</sup> Yet the Judicial Council’s website also included misleading language. Specifically, the “juror qualifications” webpage states “California law says that you are qualified to be a juror if you . . . have had your civil rights restored if you were convicted of a felony or malfeasance while holding public office.”<sup>71</sup> This language suggests that to be juror eligible, a restoration of civil rights is a necessary pre-condition requiring some affirmative action on the part of those with felony criminal convictions.

Though a restoration of civil rights was the only method by which a Californian with a felony conviction could regain juror eligibility prior to S.B.

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<sup>68</sup> Ewald, *supra* note 13, at i.

<sup>69</sup> Jessie Allen, *supra* note 13, at 417.

<sup>70</sup> California Courts, Judicial Branch of California, Juror Qualifications (2020), <https://perma.cc/UX8G-QQWL>.

<sup>71</sup> *Id.*

310, that is no longer the case.<sup>72</sup> Under S.B. 310, a restoration of civil rights is unnecessary. Moreover, the Judicial Council did not mandate a process for notification at the local level, leaving counties largely on their own to communicate the change to their citizens and to place those with a felony criminal conviction back into the jury pool. What has resulted is a hodgepodge of approaches that vary in accuracy and clarity. This lack of a comprehensive, empirically informed notification – as will be discussed below – almost assuredly will result in depressed juror participation among those with a felony conviction who are now juror eligible under S.B. 310.

### 3. THE SURVEY

In February 2020, we began to survey the extent to which California Superior Courts publicize the juror eligibility changes promulgated by S.B. 310. Given the public's ubiquitous use of the internet to access information,<sup>73</sup> we chose to review a source from which people are most likely to seek out information about jury service – their local court's website. Accordingly, we examined webpages for any juror eligibility information as it relates to those with a felony criminal history. We conducted this process three times – once in late February 2020, on April 1, 2020, and on August 16, 2020. We then combined data from the three collections, categorizing courts based on their most recent publication.

Overall, the survey revealed that California's counties took a variety of approaches to the publication of the new juror eligibility requirements for those with a felony criminal history.<sup>74</sup> Approximately one-third of the California's counties (22 of 58) publicized accurate information about S.B. 310's legislative changes, while 22 provided misleading or conflicting information, and 14 made no mention of S.B. 310 or falsely reported its effect. The data presented no clear regional patterns in the level of accuracy of information provided by counties. For example, Del Norte County provides complete, accurate information, while neighboring Humboldt County provides misleading

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<sup>72</sup> See CAL. CIV. PROC. CODE § 203(a)(5) (West 2019), repealed in 2020 (“All persons are eligible and qualified to be prospective trial jurors, except the following . . . [p]ersons who have been convicted of malfeasance in office or a felony, and whose civil rights have not been restored.”).

<sup>73</sup> See Monica Anderson, Andrew Perrin, Jingjing Jiang & Madhumitha Kumar, *10% of Americans Don't Use the Internet: Who Are They?* PEW RES. CTR. (Apr. 22, 2019), <https://perma.cc/N89R-5EWA> (detailing the 10% of adult Americans who do not regularly use the internet, and noting that the percentage has substantially declined over time); Kathryn Zickuhr, *Who's Not Online and Why?* PEW RES. CTR. (September 25, 2013), <https://perma.cc/LW7D-J7DH>.

<sup>74</sup> See app. (listing complete county-by-county information regarding S.B. 310 notification).

information, stating that a citizen may not serve if they have been convicted of a felony.<sup>75</sup>

Where counties presented S.B. 310 information on their websites also varied significantly. Juror eligibility information most often appeared in the “Frequently Asked Questions” sections (22 counties),<sup>76</sup> but was also routinely provided on the main jury page or in a press release (15 counties).<sup>77</sup> One county, Santa Cruz, created a “Frequently Asked Question” specific to juror eligibility for prospective jurors with a felony conviction. The question “May I serve on a jury if I am a felon?” was clearly and directly answered with information derived from S.B. 310.<sup>78</sup> Yet, this was an exception, as the most common “Frequently Asked Question” to address record-based juror eligibility was “Who is eligible to serve as a juror?” Responses to that inquiry varied in their accuracy, as discussed below.

There was also substantial variation in whether courts explicitly mentioned that a change occurred. For example, the Alameda County Superior Court updated a “Frequently Asked Question” about juror eligibility and then prefaced the answer with “As of January 1, 2020.”<sup>79</sup> This clearly indicated a change in prior juror qualifications. Conversely, a number of counties provided correct information about S.B. 310, but made no mention of the legislative change (9 counties).<sup>80</sup> This approach created the distinct possibility that updated information goes unnoticed by prospective jurors.

While S.B. 310 went into effect January 1, 2020, to comply with the legislation, courts would have needed to update their public communications and jury management systems prior to the effective date of the legislation. California courts are statutorily required to postmark jury summonses at least ten days prior to a prospective jurors first possible reporting date.<sup>81</sup> As a result, counties would have needed to make all changes to eligibility information at least ten days prior to January 1, 2020. This was necessary to ensure that all those summoned before January 1 – who would become newly eligible by their

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<sup>75</sup> *Id.*

<sup>76</sup> Those counties include: Alameda, Amador, Humboldt, Inyo, Kern, Kings, Lassen, Los Angeles, Marin, Mariposa, Merced, Mono, Napa, Riverside, San Benito, San Diego, San Joaquin, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Solano, and Tuolumne.

<sup>77</sup> Those counties include: Alameda, Del Norte, Fresno, Kings, Mendocino, Nevada, San Benito, San Francisco, Santa Clara, Shasta, Sierra, Solano, Tehama, Trinity, and Tuolumne.

<sup>78</sup> *See app.*

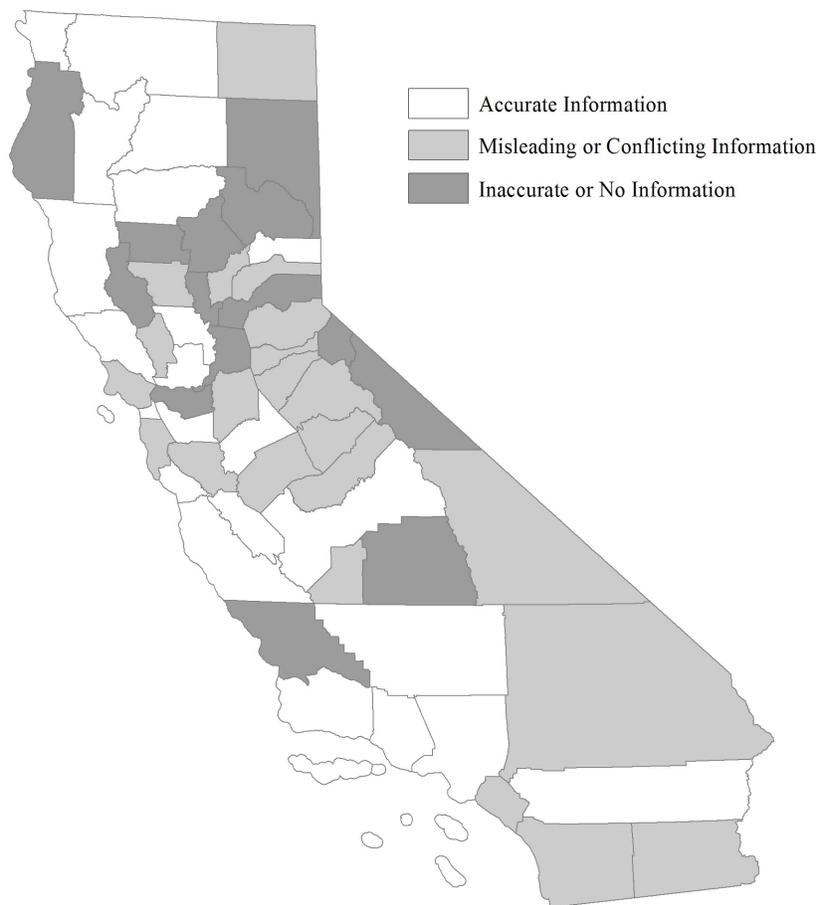
<sup>79</sup> *Id.*

<sup>80</sup> Those counties include: Los Angeles, Monterey, Santa Barbara, Siskiyou, Sonoma, Stanislaus, Tehama, Ventura, and Yolo.

<sup>81</sup> CAL. CIV. PROC. CODE § 208 (West 2004) (“The summons, when served by mail, shall be mailed at least 10 days prior to the date of required appearance.”).

summons date – were not wrongfully disqualified from service. Thus, failure to implement changes prior to the effective date of the legislation could have resulted in the wrongful exclusion of jurors with felony convictions until at least mid-January. We divided data into three distinct groups based on the state of their public-facing websites as of August 16, 2020, more than seven months after courts should have begun including citizens with felony convictions in their jury pools.

**Fig. 1: S.B. 310 County Notification as of August 16, 2020**



*A) Accurate Information Counties*

Category 1 includes counties that provided accurate information about juror eligibility (22 counties).<sup>82</sup> This category is comprised of courts that posted an explicit S.B. 310 notice or published updated juror eligibility information without an explicit mention of the change. Typically, those counties that publicize updated juror eligibility information describe juror eligibility by using language that mirrors the statutory language of S.B. 310.

Of the 22 counties that publish complete and accurate information, all seemingly ensure website consistency. For instance, Mendocino County posted a notice on their jury homepage to prominently announce the changes established by S.B. 310 and also repeated the correct information in the “Juror Qualifications” section of their website.<sup>83</sup> Likewise, Riverside County updated its “Frequently Asked Questions” page and the “Request to Be Disqualified” section of their website to include information on S.B. 310.<sup>84</sup> Thus, a prospective juror with a felony criminal conviction who accesses these informational portals receives a clear, concise, consistent message about their eligibility for jury service.

*B) Misleading or Conflicting Information Counties*

Category 2 lists counties that publicize misleading or conflicting information about juror eligibility (22 counties). The most common form of misleading information was a variation of the statutory language governing juror eligibility *prior* to the changes made by S.B. 310, stating that to serve as a juror, a person with a felony conviction would need to have their civil rights restored (13 counties).<sup>85</sup> This implies the necessity for an action to be taken where no such requirement exists, a misleading statement virtually identical to that proffered by the Judicial Council. Calaveras County, for example, stated that “persons who have been convicted of malfeasance in office or a felony, and whose civil rights have not been restored...” are ineligible for jury service.<sup>86</sup> Similarly, Marin County states that jurors are eligible to serve if they “have had [their] civil rights restored, after conviction of a felony.”<sup>87</sup>

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<sup>82</sup> Those counties include: Alameda, Del Norte, Fresno, Kern, Los Angeles, Mendocino, Monterey, Riverside, San Benito, San Francisco, Santa Barbara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Tehama, Trinity, Ventura, and Yolo.

<sup>83</sup> *See app.*

<sup>84</sup> *Id.*

<sup>85</sup> Those counties include: Amador, Calaveras, Colusa, Imperial, Marin, Merced, Modoc, Napa, Nevada, San Bernardino, San Diego, San Mateo, and Tuolumne.

<sup>86</sup> *See app.*

<sup>87</sup> *Id.*

Similarly, a county was included in this category if they provided accurate information on one portion of their website, but conflicting and wrong or misleading information elsewhere on their website (7 counties).<sup>88</sup> Most often, counties in this category have misleading information placed prominently on their websites, while accurate information on juror eligibility is difficult to find.<sup>89</sup> Madera County is such an example. Madera County's "Juror Basics" page provides a list of qualifications and states, "of those people [who meet the listed qualifications], only convicted felons, meaning anyone who has been found guilty of a felony, cannot serve."<sup>90</sup> Yet, further down on the same web page, there is a notice providing accurate information on S.B. 310.<sup>91</sup> Analogously, San Joaquin posted an S.B. 310 notice on their jury homepage, but within their FAQ's include language that states to be juror eligible, one "must have had [their] civil rights restored if [they] were convicted of a felony or malfeasance while holding public office."<sup>92</sup> For all counties in Category 2, their court websites leave open the question of juror eligibility for those convicted of a felony criminal offense. This assuredly fosters confusion for those seeking information about their status.

### *C) Incorrect or No Information Counties*

Category 3 includes counties that publicize incorrect information or no information about S.B. 310's impact on juror eligibility (14 counties). Such counties include those indicating that a person with a felony conviction is ineligible for jury service (7 counties),<sup>93</sup> and those that fail to provide any juror eligibility information on their websites (7 counties).<sup>94</sup>

An example of a county that provided false information is Sutter County, which, in addition to providing incorrect information on eligibility in a large block of text, presented a banner on the top of their jury homepage stating "convicted felons, meaning anyone who has been found guilty of a serious crime, cannot serve."<sup>95</sup> The prominence of the false information was particularly troubling, as it ostensibly suggested no review of publicized juror eligibility information implicated by the implementation of S.B. 310. Similar

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<sup>88</sup> Those counties include: El Dorado, Inyo, Madera, Mariposa, San Joaquin, Santa Clara, and Yuba.

<sup>89</sup> See e.g. Madera County; see also app.

<sup>90</sup> See app.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> Those counties include: Alpine, Glenn, Humboldt, Lassen, Mono, Sutter, and San Luis Obispo.

<sup>94</sup> Those counties include: Butte, Contra Costa, Lake, Placer, Plumas, Sacramento, and Tulare.

<sup>95</sup> See app.

inaccurate language was found on 6 additional superior court websites, suggesting that no action was taken to update eligibility information.<sup>96</sup>

The most egregious example of published misinformation on S.B. 310 appears on the court website of San Luis Obispo County, which expressly demands that additional steps be taken by a prospective juror with a felony criminal conviction (1 county).<sup>97</sup> Specifically, the website states that to be eligible for jury service, one with a felony criminal conviction must seek out and receive a Certificate of Rehabilitation. This step, which requires an entirely separate review of one's criminal history, is not a requirement of S.B. 310.<sup>98</sup>

Rounding out Category 3 are those counties that simply posted no information about the eligibility of citizens with a felony criminal history. While it is unknown if the online juror portals for those counties (7 counties) contain updated eligibility information, there is no eligibility information publicly available online.

#### *D) Survey Summary*

California counties have taken an inconsistent approach when notifying their citizens about the changes in juror eligibility status for those with a felony conviction. The message delivered and the method of delivering that message have been varied and, in many instances, objectively inadequate. In this way, the fundamental changes in California's jury system promulgated by S.B. 310 have seemingly gone unrealized. System-involved Californians who seek to fulfill their civic obligation as jurors – statewide – are receiving at best mixed messages and at worst outright falsities. Though the counties bear the bulk of the responsibility for failing to inform their citizens of S.B. 310's implications, the Judicial Council is also partly to blame. As noted, their published statements on the issue are misleading and they did not require counties to appropriately notify prospective jurors with a felony criminal history of the changes in their eligibility status post-S.B. 310.

What California requires in the wake of S.B. 310 is a comprehensive plan to inform citizens living with the mark of a felony of their new eligibility for jury service. Officials must also mandate that counties return to the jury pool those who have been previously removed because of a felony conviction. On this front, only one county – Santa Clara – provides prospective jurors with a felony conviction a process by which they can request reinstatement.

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<sup>96</sup> Those counties include: Alpine, Glenn, Humboldt, Lassen, and Mono; *see also* app.

<sup>97</sup> *See* app.

<sup>98</sup> *See* CAL. PENAL CODE §§ 4852.01-4852.22 (West 2019) (This step - the receipt of a Certificate of Rehabilitation - was not required prior to S.B. 310 and does not, by itself, equate to a restoration of civil rights).

## 4. EMPIRICALLY INFORMED NOTIFICATION PROVISIONS: THE WAY FORWARD

In the context of record-based *voter* restrictions, nearly half of all U.S. jurisdictions have attempted to combat de facto disenfranchisement through the use of notification provisions.<sup>99</sup> Though intuition suggests that notification provisions (statutory or regulatory) will improve voter turnout, research on the effectiveness of notification provisions is mixed.<sup>100</sup>

For example, in their study of the Iowa electorate, researchers Meredith and Morse found that notification increased turnout. Specifically, they found that respondents who received notifications clarifying their voting rights were 5-10 percentage points more likely to vote than were their counterparts who did not receive such notification.<sup>101</sup> Conversely, several studies call into question such improvements. In their own follow-up research, Meredith and Morse examined several other jurisdictions – New Mexico, New York, and North Carolina – and found that, contrary to earlier findings, voter notification did not increase turnout.<sup>102</sup>

Meredith and Morse suggest a number of potential reasons for their inconsistent results. First, they note that in Iowa, the notification pamphlet given to respondents was two paragraphs in length, written in large font, and informing those with a felony conviction only “what rights were and were not being restored upon discharge.”<sup>103</sup> In North Carolina and New York, jurisdictions that did not see a positive turnout effect from notification, the information distributed to respondents was conveyed in densely, complexly worded pamphlets and distributed as part of a larger discharge packet that contained additional information on a host of topics.<sup>104</sup> In Iowa, notifications were delivered via the U.S. Postal Service, addressed to the respondent personally.<sup>105</sup> And finally, the language in the Iowa notification took not only an informative tone, but also an encouraging one. As Meredith and Morse explain, “the language used in the letter conveys not only that the ex-felon is eligible to vote but also that the state wants him or her to vote.”<sup>106</sup> In this way, the State is proactively sending an invitation to civic participation. In a sense, the State is not only providing information about the party, but also that those with a felony criminal record ought to attend.

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<sup>99</sup> See Meredith & Morse, *supra* note 14, at 221 (citing data compiled by the Brennan Center for Justice as of Mar. 11, 2011).

<sup>100</sup> See Meredith & Morse, *supra* note 16; Meredith & Morse, *supra* note 14.

<sup>101</sup> Meredith & Morse, *supra* note 16, at 77-78.

<sup>102</sup> See Meredith & Morse, *supra* note 14.

<sup>103</sup> *Id.* at 240.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

These findings suggest that as to voter reinstatement, notification alone does little to mobilize civic participation. In the case of jury service, additional barriers also present. Citizens are notoriously averse to jury service. As one commentator notes, most people view jury service as “a waste of [their] time and taxpayer monies, a burden to be avoided if at all possible, and if not, to be dispensed with as quickly and with as little effort as possible.”<sup>107</sup> Accompanying this general distaste for jury service is the inherently coercive nature of a jury summons that details a criminal penalty for failure to appear. Given these factors, notification of a change in juror eligibility status must be carefully crafted to be effective.

In the case of California, notifications vary and their effectiveness is beyond the scope of this article. Still, what is clear is that a significant proportion of counties have failed to provide their citizens even a minimal level of information on S.B. 310. On that front, research on voter notifications is instructive. Juror notification provisions at the county level should make clear in prominent, simplified language that 1) S.B. 310 has made a significant change to juror eligibility requirements; 2) those changes impact citizens with a felony criminal conviction specifically; and 3) California encourages and welcomes such citizens into its justice system as jurors.

Future research – currently ongoing – should then assess the efficacy of notification requirements in the juror eligibility context. Then, as in the context of voter notifications, jurisdictions can use science to continue to evaluate and re/craft effective, evidence-based methods of notifying prospective jurors with a felony conviction of their newfound eligibility.

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<sup>107</sup> Paula Hannaford-Agor & G. Thomas Munsterman, *Ethical Reciprocity: The Obligations of Citizens and Courts to Promote Participation in Jury Service*, in *JURY ETHICS: JUROR CONDUCT AND JURY DYNAMICS* 21, 21 (John Kleinig & James P. Levine eds., 2006). *But see* Robert Boatright, *Why Citizens Don't Respond to Jury Summonses and What Courts Can Do About It*, 82 *JUDICATURE* 156 (1999).

## CONCLUSION

Those who implement policy on the ground have a tremendous amount of discretion, especially when legislation fails to dictate specific strictures for, in this case, notification. As Michael Lipsky observed in his seminal work, street level bureaucrats have the power to – and often do – undermine official policy consciously and/or subconsciously through overt and/or inadvertent actions.<sup>108</sup> Their discretion, necessary due to the complicated situations they encounter and the human dimensions of those situations, occasionally leads to the circumvention of official policy.<sup>109</sup>

In the case of S.B. 310, it appears that the street-level bureaucrats charged with administering California's jury system have largely ignored those with a felony criminal record. But they do so at the State's peril. Research suggests that jurors who have experiential knowledge of our criminal justice system show up for service, evenhandedly assess facts, fairly apply the law, and overall comport themselves in a thoughtful, enthusiastic manner.<sup>110</sup> Moreover, including citizens with criminal justice system involvement in our jury pool likely facilitates their reentry and desistance from crime, as the State's official recognition of their non-criminal status helps to facilitate a pro-social sense of self and an investment in their respective communities.<sup>111</sup> Thus, for California's juries and for those Californians previously excluded, an effective system of notification would educe a host of benefits.

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<sup>108</sup> MICHAEL LIPSKY, STREET-LEVEL BUREAUCRACY: DILEMMAS OF THE INDIVIDUAL IN PUBLIC SERVICES 3 (1980); *see also* MICHAEL HILL & PETER HUPE, IMPLEMENTING PUBLIC POLICY (2002).

<sup>109</sup> Lipsky, *supra* note 109, at 15.

<sup>110</sup> *See* Binnall, *supra* note 18.

<sup>111</sup> *Id.*; *see also supra* note 3.

## APPENDIX: S.B. 310 NOTIFICATION BY COUNTY

County	Classification	Rationale	Web Address <sup>112</sup>
Alameda	Accurate	Posted an S.B. 310 notice on website homepage and FAQ's updated with language reflecting new juror eligibility requirements.	<a href="https://perma.cc/VT95-JYA2">https://perma.cc/VT95-JYA2</a>
Alpine	Inaccurate	Qualification requirements state that a person is "not competent to act as a trial juror if . . . The persons has been convicted of malfeasance in office or any felony or other high crime."	<a href="https://perma.cc/T7B5-8948">https://perma.cc/T7B5-8948</a>
Amador	Misleading	FAQ's state that to serve "you must have had your rights reinstated if convicted of a felony or malfeasance" and also that "you must not have been convicted of a felony or malfeasance in office."	<a href="https://perma.cc/A99H-Z3W6">https://perma.cc/A99H-Z3W6</a>
Butte	No Information	No eligibility information on jury webpage.	<a href="https://perma.cc/FV9G-7BGN">https://perma.cc/FV9G-7BGN</a>
Calaveras	Misleading	Juror qualifications state that "all persons are eligible and qualified to be prospective jurors, except the following: . . . Persons who have been convicted of malfeasance in office or a felony, and whose civil rights have not been restored."	<a href="https://perma.cc/HPW7-47HG">https://perma.cc/HPW7-47HG</a>
Colusa	Misleading	No eligibility information on court's jury webpage, but does provide a link to view a brochure on the California Court website which provides eligibility information.	<a href="https://perma.cc/8GR5-8V74">https://perma.cc/8GR5-8V74</a>
Contra Costa	No Information	No eligibility information on jury webpage.	<a href="https://perma.cc/9P5Q-FN29">https://perma.cc/9P5Q-FN29</a>
Del Norte	Accurate	Posted a link to S.B. 310 legislation on jury webpage.	<a href="https://perma.cc/22XY-MLEX">https://perma.cc/22XY-MLEX</a>
El Dorado	Conflicting	Juror page has multiple drop-down information menus. Under the eligibility drop-down it states that "persons convicted of a malfeasance or felony" are ineligible to serve. Further down the page	<a href="https://perma.cc/6ZCK-HLLY">https://perma.cc/6ZCK-HLLY</a>

<sup>112</sup> All web addresses were archived on Aug. 16, 2020.

		there is a "request to be disqualified" menu where language is updated to request qualifications post S.B. 310. The court did have a notice regarding S.B. 310 near the top of the jury services page that is no longer present.	
Fresno	Accurate	Juror eligibility qualification information on homepage is updated with language reflecting new juror eligibility requirements.	<a href="https://perma.cc/E9HM-APXT">https://perma.cc/E9HM-APXT</a>
Glenn	Inaccurate	General information on jury page states that "All U.S. citizens who are over the age of 18, a resident of the county that issued the jury summons, and are able to understand the English language are eligible to serve on a jury in the State of California. Of these people, only convicted felons, meaning anyone who has been found guilty of a serious crime, cannot serve."	<a href="https://perma.cc/S7L3-9DTY">https://perma.cc/S7L3-9DTY</a>
Humboldt	Inaccurate	Frequently asked questions state that "You may be called to serve if you are 18 years old or older, a United States citizen, and a resident of the County of Humboldt. In addition you must not have served as any kind of juror during the past 12 months, nor have been convicted of a felony."	<a href="https://perma.cc/YQ8B-PJA2">https://perma.cc/YQ8B-PJA2</a>
Imperial	Misleading	Eligibility on jury homepage is not updated. It provides a list of eligibility requirements including that a prospective juror must "Have had your civil rights restored if you were convicted of a felony or malfeasance while holding public office."	<a href="https://perma.cc/RL8W-4BW8">https://perma.cc/RL8W-4BW8</a>
Inyo	Conflicting	FAQ information states that you may not serve if you have been convicted of a felony, but the subsequent paragraph provides information on S.B. 310.	<a href="https://perma.cc/GV65-ETQT">https://perma.cc/GV65-ETQT</a>
Kern	Accurate	Information on disqualification reasons page is updated to reflect S.B. 310.	<a href="https://perma.cc/77NV-XCWT">https://perma.cc/77NV-XCWT</a>
Kings	Misleading	FAQ information states that you may not serve if you have been convicted of a felony. The jury homepage has a link to S.B. 310 information but the text says "Effective January 1, 2020, the following persons will not be eligible to serve Jury Duty" implying additional exclusions rather than the expansion of eligibility.	<a href="https://perma.cc/QZN7-PV4F">https://perma.cc/QZN7-PV4F</a> ; <a href="https://perma.cc/6HHY-WWN9">https://perma.cc/6HHY-WWN9</a>

Lake	No Information	No eligibility information on jury webpage.	<a href="https://perma.cc/T5MK-GBPD">https://perma.cc/T5MK-GBPD</a>
Lassen	Inaccurate	FAQ information states that you may be called to serve if "you have no felony convictions.."	<a href="https://perma.cc/U426-SND4">https://perma.cc/U426-SND4</a>
Los Angeles	Accurate	FAQ information is updated with language reflecting new juror eligibility requirements.	<a href="https://perma.cc/U8KF-4QZM">https://perma.cc/U8KF-4QZM</a>
Madera	Conflicting	Under Juror Basics at the top of the page some basic qualifications are listed followed by "Of these people, only convicted felons, meaning anyone who has been found guilty of a felony, cannot serve." Further down the page, however, there is an S.B. 310 notice.	<a href="https://perma.cc/TV74-Q4XD">https://perma.cc/TV74-Q4XD</a>
Marin	Misleading	FAQs state that you "may be required to serve if you meet all of the following qualifications" and includes "have had your civil rights restored, after conviction of a felony"	<a href="https://perma.cc/SSE6-F4DP">https://perma.cc/SSE6-F4DP</a>
Mariposa	Conflicting	Notice on jury homepage announced the changes to juror eligibility in line with S.B. 310, but FAQs state that you are not eligible to serve if you have been convicted of a felony.	<a href="https://perma.cc/QY7N-UA6N">https://perma.cc/QY7N-UA6N</a> ; <a href="https://perma.cc/T5SP-JA32">https://perma.cc/T5SP-JA32</a>
Mendocino	Accurate	Notice on jury homepage announces the changes to juror eligibility and qualifications section is updated to reflect new eligibility requirements.	<a href="https://perma.cc/UK25-PYZG">https://perma.cc/UK25-PYZG</a>
Merced	Misleading	FAQ states that a felony conviction does not disqualify you from jury service "only if have served State prison time and have NOT had your rights restored." The juror qualifications page links to a document that says you are qualified to serve "if you have had your civil rights restored if of a felony or malfeasance while holding public office" followed by information on S.B. 310.	<a href="https://perma.cc/JBB7-D9NJ">https://perma.cc/JBB7-D9NJ</a> ; <a href="https://perma.cc/H27N-ETA6">https://perma.cc/H27N-ETA6</a>
Modoc	Misleading	Modoc does not explicitly mention felony convictions in the qualifications section, but does state that you are qualified for jury service if you "have had your civil rights restored, if they	<a href="https://perma.cc/L6RH-S8JZ">https://perma.cc/L6RH-S8JZ</a>

were previously restricted."

Mono	Inaccurate	FAQ states that you may not be called to serve as a juror if you have been convicted of a felony.	<a href="https://perma.cc/PJ2K-7SUY">https://perma.cc/PJ2K-7SUY</a>
Monterey	Accurate	Qualifications are updated with new juror eligibility requirements.	<a href="https://perma.cc/LQ5G-FJL3">https://perma.cc/LQ5G-FJL3</a>
Napa	Misleading	FAQ states that you are not eligible to serve if you are a person who has been "convicted of malfeasance in office or a felony, and whose civil rights have not been restored."	<a href="https://perma.cc/ZER2-P4H8">https://perma.cc/ZER2-P4H8</a>
Nevada	Misleading	Notice on court homepage informing public of S.B. 310 changes. Jury information page states that you may request to be disqualified or excused if "you have been convicted of a felony or malfeasance in office and your civil rights have not been restored"	<a href="https://perma.cc/HK74-63U5">https://perma.cc/HK74-63U5</a>
Orange	Misleading	Juror information section instructs jurors to disqualify themselves if "convicted of a felony or malfeasance in office."	<a href="https://perma.cc/PY94-PRB7">https://perma.cc/PY94-PRB7</a>
Placer	No Information	No eligibility information on jury webpage. Provides a portal for summoned jurors to fill out an ability to serve questionnaire, but requirements are not publicly posted.	<a href="https://perma.cc/49MA-LWBG">https://perma.cc/49MA-LWBG</a>
Plumas	No Information	No eligibility information on jury webpage.	<a href="https://perma.cc/4APD-UQCN">https://perma.cc/4APD-UQCN</a>
Riverside	Accurate	FAQs are updated and S.B. 310 information is posted under request to be disqualified section.	<a href="https://perma.cc/HUQ9-DR5D">https://perma.cc/HUQ9-DR5D</a> ; <a href="https://perma.cc/HB7X-Z5G7">https://perma.cc/HB7X-Z5G7</a>
Sacramento	No Information	No eligibility information on jury webpage.	<a href="https://perma.cc/9E5A-HBPX">https://perma.cc/9E5A-HBPX</a>
San Benito	Accurate	Posted an S.B. 310 notice on jury homepage and updated FAQ information.	<a href="https://perma.cc/HTZ6-9Z5U">https://perma.cc/HTZ6-9Z5U</a> ; <a href="https://perma.cc/5M9U-KNFA">https://perma.cc/5M9U-KNFA</a>
San Bernardino	Misleading	"You are exempt if you . . . Have been convicted of a felony and your civil rights have not been restored."	<a href="https://perma.cc/G4SD-QYLN">https://perma.cc/G4SD-QYLN</a>

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San Diego	Misleading	FAQ states that you are eligible to serve if you "have had your civil rights restored if you were convicted of a felony or malfeasance while holding public office."	<a href="https://perma.cc/M7CZ-BJJ9">https://perma.cc/M7CZ-BJJ9</a>
San Francisco	Accurate	S.B. 310 notice on jury homepage.	<a href="https://perma.cc/3YJE-UPGR">https://perma.cc/3YJE-UPGR</a>
San Joaquin	Conflicting	S.B. 310 notice on jury homepage. FAQs state that to be eligible you must "have had your civil rights restored if you were convicted of a felony or malfeasance while holding public office" but is followed by S.B. 310 information.	<a href="https://perma.cc/W8Q8-AKPP2">https://perma.cc/W8Q8-AKPP2</a> <a href="https://perma.cc/H4XG-SEL8">https://perma.cc/H4XG-SEL8</a>
San Luis Obispo	Inaccurate	Juror qualifications page says that "you are qualified if you are: An individual who has not been convicted of a felony, or if convicted and civil rights restored, attach a copy of Certificate of Rehabilitation"	<a href="https://perma.cc/DWR7-Y4QM">https://perma.cc/DWR7-Y4QM</a>
San Mateo	Misleading	On jury process page, it states that "Persons convicted of malfeasance in office or a felony, and whose civil rights have not been restored" are not eligible to serve.	<a href="https://perma.cc/6U4U-XYBK">https://perma.cc/6U4U-XYBK</a>
Santa Barbara	Accurate	FAQs are updated with language reflecting new juror eligibility requirements.	<a href="https://perma.cc/7RSJ-YKVZ">https://perma.cc/7RSJ-YKVZ</a>
Santa Clara	Conflicting	Prominent homepage notice on S.B. 310, but accuracy of FAQ is mixed. It states that to serve you must have had your civil rights restored if convicted of a felony with S.B. 310 information below.	<a href="https://perma.cc/SBA7-RAVL">https://perma.cc/SBA7-RAVL</a> ; <a href="https://perma.cc/TS7H-T7CB">https://perma.cc/TS7H-T7CB</a>
Santa Cruz	Accurate	FAQs are updated with language reflecting new juror eligibility requirements.	<a href="https://perma.cc/P6NV-36X7">https://perma.cc/P6NV-36X7</a>
Shasta	Accurate	S.B. 310 notice on jury homepage and FAQs are updated with language reflecting new juror eligibility requirements.	<a href="https://perma.cc/XA22-5J2J">https://perma.cc/XA22-5J2J</a>
Sierra	Accurate	S.B. 310 notice on jury homepage.	<a href="https://perma.cc/PQ92-L7R4">https://perma.cc/PQ92-L7R4</a>

Siskiyou	Accurate	Eligibility information section links to statutory language from CCP 203, updated by S.B. 310.	<a href="https://perma.cc/595W-N3L2">https://perma.cc/595W-N3L2</a>
Solano	Accurate	S.B. 310 notice on jury homepage and FAQs are updated with language reflecting new juror eligibility requirements.	<a href="https://perma.cc/4BMC-G8CL">https://perma.cc/4BMC-G8CL</a> ; <a href="https://perma.cc/FSQ6-YMYM">https://perma.cc/FSQ6-YMYM</a>
Sonoma	Accurate	S.B. 310 information reflected in juror disqualification section.	<a href="https://perma.cc/7R5P-VHP2">https://perma.cc/7R5P-VHP2</a>
Stanislaus	Accurate	Qualifications page information updated with language reflecting new juror eligibility requirements.	<a href="https://perma.cc/M278-Y7S4">https://perma.cc/M278-Y7S4</a>
Sutter	Inaccurate	Banner on top of jury page states that you may not serve if you have been convicted of a felony. This information is repeated in the disqualification/excuse section.	<a href="https://perma.cc/RF2D-7PSF">https://perma.cc/RF2D-7PSF</a>
Tehama	Accurate	S.B. 310 information updated on jury homepage.	<a href="https://perma.cc/Y9DV-RE9R">https://perma.cc/Y9DV-RE9R</a>
Trinity	Accurate	S.B. 310 notice on homepage and juror qualifications updated.	<a href="https://perma.cc/24JZ-4XSU">https://perma.cc/24JZ-4XSU</a> ; <a href="https://perma.cc/T3XV-HUKE">https://perma.cc/T3XV-HUKE</a>
Tulare	No Information	No eligibility information on jury webpage.	<a href="https://perma.cc/P795-635V">https://perma.cc/P795-635V</a>
Tuolumne	Misleading	S.B. 310 notice on jury homepage, but FAQs state that you must have had your civil rights restored if convicted of a felony or malfeasance in office.	<a href="https://perma.cc/3R47-3UVC">https://perma.cc/3R47-3UVC</a> ; <a href="https://perma.cc/HX4S-HYXK">https://perma.cc/HX4S-HYXK</a>
Ventura	Accurate	Qualifications information updated with language reflecting new juror eligibility requirements.	<a href="https://perma.cc/2XVU-X8VU">https://perma.cc/2XVU-X8VU</a>
Yolo	Accurate	Qualifications information updated with language reflecting new juror eligibility requirements.	<a href="https://perma.cc/855G-466E">https://perma.cc/855G-466E</a>
Yuba	Conflicting	Qualifications information updated with information on S.B. 310, but also includes language that states you must have "had your civil rights restored if you were convicted of a felony or malfeasance while holding public office."	<a href="https://perma.cc/K48B-KWVR">https://perma.cc/K48B-KWVR</a>