

Free Voices— Democracy Ensured

Advocating for Change For
Eligible Voters In Jail



ACLU
Wisconsin

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Introduction

A fundamental cornerstone of a democratic society is the active and engaged participation of all its citizens in the voting process, including, often disregarded, groups of individuals entrenched in the criminal legal and carceral system. The recent [2022 report](#), “Ballots for All: Ensuring Wisconsinites in Jail Have Voting Access” revealed that while administrators have become increasingly familiar with jail voting as an issue—a combination of factors, namely widespread variance across jail voting policies and a glaring lack of protocol governing voting procedures, continue to disenfranchise eligible voters in Wisconsin jails.

Our [2022](#) report showcases limited progress on jail-based voting, indicating that county jails still have a long way to go in providing incarcerated Wisconsinites with ample opportunity to exercise their fundamental right to vote. In light of these updated findings, this report includes modified and updated recommendations from those made in the [2021](#) report to address the systemic barriers that eligible Wisconsinites voters continue to face in county jails. Sheriffs and jail administrators need to uphold their elected duty to serve and assist all members of their communities, inclusive of their duty to preserve and protect all rights of those they serve.

Through these recommendations, we urge sheriffs and jail administrators to take immediate steps to develop and implement appropriate long-term jail voting policies and procedures to ensure the enfranchisement of eligible voters in county jails.



Background

The ACLU of Wisconsin previously conducted annual public records request and reporting to shed light on the de facto disenfranchisement of thousands of eligible Wisconsinites in county jails. These past reports from 2020 to 2021 previously highlighted how the operational shortcomings of Wisconsin county jails have resulted in mediocre or non-existent jail voting policies and practices. We provided recommendations based on trends seen through data from 2020 to 2021, and specifically outlined steps that county jails, the state legislature and election administrators should take to improve the jail voting process and outcomes in Wisconsin.

In 2022, the ACLU of Wisconsin Foundation conducted a third analysis on the current state of jail voting, which yet again showed a flagrant lack of improvement or implementation of jail voting policies across the state. While 66 counties replied to public records inquiries, only 15 of these counties had slightly more detailed policies than the vague and insubstantial language of Lexipol policies adopted by nearly half (32) the responding counties.

The patterns seen across three years of reporting, paired with consistently low jail-voting turnout in Wisconsin, exemplifies how the glaring absence of

standardization in jail voting policies makes it nearly impossible to hold sheriffs and jail administrators accountable for diligently ensuring that voting practices (ie. voter registration, voter education, ballot return protocols) are in place and regularly monitored and/or audited. Similarly, better practices of the few sheriffs in Wisconsin are not utilized as a blueprint for voting rights work across the state.

In other words, the few quality jail voting initiatives that currently exist are not being used as models by other counties around the state, and many administrators have outright failed to uphold their ethical

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duties to preserve rights. It is in the public’s interest, and informed voter’s interests, to know that these counties need to correct this lack of transparency, and likely, their lack of work on ensuring voters in their care are not disenfranchised. One has to ask themselves how best to hold elected officials and jail administrators accountable, and whether such lack of policy and procedure speaks to deliberate attempts to shirk their duties as elected officials, and facilitators of the right to vote when in jail and eligible to vote.

Ultimately, the recent results from the ACLU of Wisconsin Foundation “Ballots for All” [2022 report](#), plus anecdotal data from community partners and collaborators, suggests that renewed recommendations

are needed for implementing effective, equitable, and enduring jail voting policies, which in turn, can also extend to enhanced voting rights protection for all Wisconsinites.

We hope that the educational findings gleaned from the 2022 “Ballots for All” report, in conjunction with updated recommendations in this piece, will urge jails that put minimal to no effort into jail voting to take the steps to significantly improve, as exercising the right to vote is critical to protecting our civil rights and liberties.

Recommendations

The pattern of dismal data trends over three years over the existence and efficacy of jail voting policies in Wisconsin jails underscores how important providing a new scope of incremental, iterative, human-centered recommendations is. These changes should extend beyond outlining steps that county jails, the state legislature and election administrators should take to merely quantitatively improve the jail voting process and outcomes in Wisconsin as done in previous reports.

Thus, we encourage sheriffs and jail administrators to take these staged recommendations into immediate consideration, with the understanding that the first step in creating long-lasting change across Wisconsin jails is through basic interventions that address the fundamental human needs of all people, particularly those within the carceral system.

STAGE 1 — Short term recommendations: Basic interventions

When a person enters booking at a county jail, they are immediately stripped of their humanity. A piece of a person's dignity is taken by a strip search, followed by being told everything they see, touch and feel is a privilege. Continued feelings of unworthiness due to that lack of dignity can cause a person to disengage, experience mental health issues, and deprioritize accessing their right to vote.

Reminding people in jail that they still have the power to lift their voice by voting, a right that should be protected, results in positive outcomes for individuals and communities alike. We want to ensure that people in jail can use their voices, and remain connected to the



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**“Election notice/
information: The Jail
Program Coordinator and
the Jail Chaplain will post
fliers throughout the jail
90 days prior to all local
elections. These fliers
will act as reminders to
the inmate population
that an election is coming
up, who to contact to
participate, and what the
date of the election is.”**

— LaCrosse County Jail Voting
policy

**“When we ensure we
are working with every
segment of our community
and utilizing the expertise
of people with lived
experience and who are
most impacted, the kinds
of successes that we can
create are limitless.”**

— Kimberly Kronk, county board
member, Eau Claire County Jail

communities that they will return to, as well as retain their humanity. These outcomes are in service to protecting rights, as well as an ethical responsibility of public servants.

People in overcrowded and under-resourced jails often do not have their basic needs met. We consider basic needs to include access to quality and stable shelter, food security, clean drinking water, and physical, psychological, and emotional safety. When basic needs are not met, people remain in a constant state of survival mode, leaving little room to think about anything else including how to navigate complex systems, self advocate, or retain the motivation for exercising the right to vote. This is exacerbated by the lack of basic needs required to attain stable living conditions outside of jail - all of which is required to receive an ID and navigate additional bureaucratic barriers.

Relying on experience and knowledge from community organizations around Wisconsin is one of the many overlooked opportunities to address the basic needs of incarcerated individuals and re-instill their sense of empowerment and purpose in the electoral process. Jail administrators should welcome community organizations to enter county jails and assist with voter registration, education, and the voting process. Furthermore, community engagement within county jails also creates opportunities to address other barriers to the ballot, such as language and literacy accessibility needs, as well as other unmet needs that can preclude an individual from voting.

Through effective relationships and opportunities to provide education about the importance of voting while in jail, the situation could significantly improve. This could include consistent practices across Wisconsin addressing the structural barriers to ID access for incarcerated people, which can, in practice, impact the ability to vote while in jail.

Imagine a future where consistent jail voting policies and practices could be realized through community collaboration, a future where jail booking information is an allowable substitute for a state ID and documentation of legal residence for unhoused people. While these specific process improvements would require legislative change, it is important to envision what true accessibility in jail voting would look like—and share

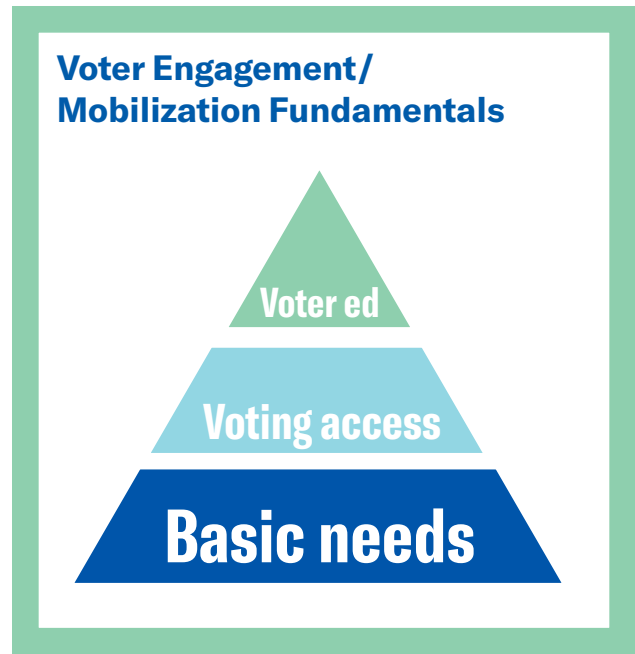
that vision with county leaders—before pushing for incremental change to resist disenfranchisement across the state.

As a first step, we recommend counties statewide adopt Eau Claire County Jail’s voting policy. This policy is not only clear, but addresses the critical barrier of getting an ID and requesting an absentee ballot. Modeled after Eau Claire County Jail, we recommend jails invest in computer kiosks or other internet-enabled devices to support access to myvote.wi.gov, the Wisconsin Elections Commission website, and other information to support voting access. We also recommend that jails clearly indicate that they are nonpartisan and provide assistance to any voter as part of their sworn duty as elected officials with oversight of the human conditions within an institution of incarceration.

Better practices, similar to those of Eau Claire County, include the following:

We suggest that the jail provide eligible voters with election dates, deadlines and opportunities to learn about voting issues via kiosks or other internet enabled devices. The jail should supply access to or photocopies of proof of residence or a photo ID document. The jail should arrange access to voter registration requests for absentee ballots, designating a jail social worker as the contact person to provide voting assistance. The jail should welcome collaboration with community groups to host onsite voter registration events, voter education, and basic needs assistance in preparation for their release back into their community.

While seemingly rudimentary in scope, the recommendations in stage one are absolutely critical benchmarks that must be systemically achieved to proceed with establishing robust and exemplary jail voting practices across Wisconsin.



STAGE 2— Medium term recommendations: Continuous process improvement

Once the basic interventions outlined in Stage 1 have taken place, jail officials, community partners and state officials can begin the iterative process of reviewing the outcomes of jail voting processes and identifying key areas for improvement. This will require an unflinchingly intentional recalibration, rebuilding and refinement of policies and practices to meet the current and relevant needs of the people within Wisconsin’s jail system.

This includes responsiveness to demographics and disproportionately incarcerated Black, Indigenous and People of Color and people lacking economic stability, an acknowledgment of how basic needs influence voting access and ongoing public health conditions. A hallmark of continuous process improvement will include regular audits of jail voting processes with measurable accountability benchmarks, subsequent consequences for underperformance, and intentionally transparent public communication.

Wisconsin Voting Rights Coalition

In the statewide jail voting coalition, we value and prioritize working with directly impacted people and their experiential knowledge. We first prioritize our relationship and culture instead of jumping into action/work. This practice creates a culture of equity and trust. This, in turn, allows for us to work more effectively together and each person feels valued. The personal stories, ideas and vision of directly impacted people have allowed for us to get as far as we have in our jail voting education and advocacy efforts.



To do so effectively, state officials will need to deepen collaboration with community partners, such as those in the Wisconsin Voting Rights statewide Jail Voting Coalition, and prioritize the voices and experiences of individuals and families who have been, or are currently, directly impacted by the carceral system.

STAGE 3—Long term recommendations: Standardization and System Implementation

Finally, Stage 3 will entail the institutionalization of vigorously-vetted, dignity-centric jail voting policies and protocols statewide, and begin the process of addressing our egregious state criminal justice standards as they interact with the vital right to vote.

This requires state-level buy-in from public servants, at the Department of Corrections to the state house to the governor. This means the Department of Corrections, sheriffs and county leaders all play a pivotal role to ensure each county has a plan, improves upon that plan, and produces accurate public-facing documentation of their successes and failures, requesting the assistance of non-profit organizations to help facilitate both the access required to vote and the motivation to do so. Fundamentally, this phase is about maintaining best practices, addressing lessons learned, and consistent visiting of these interrelated issues to address new challenges. This is a process without end, until and unless there are no more incarcerated Wisconsinites.

Conclusion

The United States Supreme Court affirmed in *O'Brien v. Skinner* nearly a half century ago that people in jail otherwise legally eligible to vote cannot be disenfranchised solely because of their incarceration. However, jails in only 15 of Wisconsin's 72 counties have detailed voting policies to assist people in their care with this fundamental right. An additional 32 county jails only have brief policies with vague language.

Before identifying barriers to the ballot in jails caused by insufficient local policies, general bureaucratic challenges in Wisconsin's carceral systems, and state election laws and guidance that inhibit access to alternative jail voting procedures, it is essential to acknowledge the first-order human needs of people incarcerated in jails throughout the state.

The institutional power dynamics and conditions of confinement in jails are inherently dehumanizing. Defacto-disenfranchisement is just one of countless deprivations of liberty and human dignity experienced by people in Wisconsin jails.

We recommend that local jail administrators adopt a voting policy that mirrors that of the Eau Claire County Jail as a first step toward respecting and upholding the franchise of people in their care. But the existence of a policy alone does not equate to empowerment of eligible voters in jail throughout the electoral process. It is only through the intentional inclusion of directly impacted people and community organizations in policy development and implementation that barriers can be meaningfully and creatively overcome.

By sharing power through iterative and inclusive policy-making and evaluation, jail administrators and other local officials can continually measure the success of their efforts by the lived experiences of people in their care.

As additional local policies are developed, evaluated, and reshaped through this collective impact framework that centers human needs and experiences, best practices will continue to emerge that can be replicated and recommended for adoption at the state level.



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