DEMOCRACY
DETAINED

Fulfilling the Promise of the Right to Vote from Jail Toolkit for Elections and Jail Administrators

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1. It’s crucial for in-person polling places in jails to be administered not only on Election Day, but also during the entirety of early voting periods. Jail-based poll sites have encountered issues with “movement restrictions” (i.e., limitations on the number of incarcerated individuals who are allowed out of their cells at the same time and the ratio of staff-to-prisoners required for accompaniment to any out-of-cell destination). Because incarcerated individuals have to be escorted out of their cells, sometimes one person at a time, and due to events that suspend movement, such as head counts and meal times, it is highly unlikely that all voters could be escorted to the polls on a single day. Early voting must be included in any on-site polling place plan in order to mitigate the challenges associated with jails’ movement restrictions. For draft coalition advocacy letters to elected officials and jail administrators on this topic, please see this sample from the Vote in NYC Jails Coalition.

2. Jail polling places should afford both eligible incarcerated voters and jail staff the ability to vote. In some places, it is required for all polling places to permit members of the public to vote such that even jail polling places that enable incarcerated individuals to vote must also have some machines available for non-incarcerated voters. Allowing jail staff to vote in person at the jail will increase convenience for staff and will also allow jail staff to vote without needing to take time off, which may alleviate understaffing during election periods and increase the likelihood that the jail will have sufficient staffing to get all detained voters through the on-site ballot-casting procedures.

3. Voter education efforts should extend beyond election periods. The ability of detained voters to exercise their right to vote is always important, and inside voters have reported feeling slighted that there are periods of vigorous outreach and sustained contact by community organizations followed by disengagement when an election has passed. This trend also harms formerly incarcerated advocates on the outside, who are sometimes hired by organizations eager to hold them out as examples of centering impacted people, only to lose their jobs when the election is over. Mobilizing impacted voters should be a more sustained effort on the parts of all involved.

4. Civic engagement classes are crucial for detained voters. Once jail-based poll sites are established, the next step is to raise awareness about why voting matters. These efforts have only just begun and are a critical step in ensuring that voters make use of them. If voters have access to information about the candidates and measures on the ballot, they may see how the election affects them and be more energized about voting.
Jail administrators, Sheriffs, and elections administrators should work with stakeholder coalitions to support civic education and facilitate voter education by hosting candidate forums at local jails and increasing access to non-partisan educational materials about what is on the ballot on a year-round basis. Working collaboratively with our partners and jail-based organizers, the Legal Defense Fund (LDF) was able to distribute non-partisan voter education materials at the Harris and Travis County jails during the 2021 and 2022 Election cycles. Additionally, sample ballots and information about local offices in their jurisdiction can be included on informational posters in high-traffic common areas at the jail.

Elections administrators should work to ensure that eligible jailed voters have access to valid identification cards to be able to vote. This can come in the form of family members visiting with identification. Where no such identification is available, jail administrators should work with elections administrators to verify voter eligibility lists for detainees in advance of the voting period.

Elections administrators should implement staff training programs for jail-based voting well in advance of upcoming elections. After the jail-based poll site is established, both entities should work together to address the election day issues that occurred in order to improve the poll site.

## Sample Non-Partisan Civic Education Materials

### Why Vote?
Local elections are closest to home and have an immediate impact on your daily life! Your vote is your power to enact change — leave no power on the table!

### What Is on the Ballot?
Candidates for local offices including city councilmembers, school boards, and propositions to address police oversight. Visit vote411.org/ballot to learn about candidates.

### Know Your Rights
Under Texas law, you have a right to:
- Vote if you are in jail and awaiting trial or sentencing or if you have been sentenced to a misdemeanor offense.
- Vote after serving a felony conviction if you have (1) fully completed the sentence, including any term of incarceration, parole, or supervision, or (2) completed a period of probation ordered by any court.
- Receive up to two more ballots if you make a mistake while marking the ballot.
- Vote by mail if in jail and eligible.

### You Can Vote in Jail, If Eligible
Based on the left, if you are allowed to vote on Election Day, know that you have rights even if you are in jail.

Questions about you or a loved one’s voter registration or the election? Contact your local election administrator at elections@traviscountytexas.gov or 512-854-4996 or the Election Protection Hotline at 866-OUR-VOTE.
As a jail or elections administrator, there are steps you can take to support and advance the implementation and use of jail-based voting.

- Jail administrators and elections stakeholders at the local and state levels should work collaboratively with community organizations and advocates interested in establishing a jail-based poll site.

- Elections administrators and jail administrators should develop a working relationship with their state disability access or protection and advocacy groups to ensure that any poll site at the jail accommodates the accessibility needs.

- Jail administrators should identify jail policies or procedures that may impact the jail-based poll site (e.g., movement restrictions, staff capacity, accessibility, lack of access of identification required to vote while detained) and coordinate with community partners to solve these issues.

- Election judges should provide access to eligible voters with disabilities, limited English proficiency, or limited literacy, including by using the audio or other functions available on touchscreen machines.

- Elections administrators should make sure that voters who are already properly registered are not turned away from the polls because of lack of necessary identification or because information on their ID (such as information incorrectly typed onto their booking papers) does not match their voter registration information.

- Eligible voters trying to register on-site should be able to use a jail identification and booking form as the required two forms of identification. Election judges and poll workers should be notified of the acceptability of these types of identification and trained to enter associated information into their electronic pollbook and other systems.

- Elections administrators should coordinate with jail administrators to adapt typical functions and procedures for operating poll sites to the jail context (e.g., fulfilling the need for separate voting stations for detained voters and the general public or jail staff).

- Jail administrators should allocate the staff and resources necessary to fulfill the functions of the jail-based poll site during election periods and should communicate with community partners and elections administrators to troubleshoot capacity restrictions that may impede the full functioning of the poll site.

- Every effort should be made to consider the sensitive environment of voting in a carceral facility and respect voters’ rights and dignity in that environment. This process looks different from one jurisdiction to another and should actively consider the feedback of detained voters.
The Thurgood Marshall Institute (TMI) is a multidisciplinary center within the Legal Defense Fund (LDF). Launched in 2015, the Institute complements LDF’s traditional litigation strengths and brings critical capabilities to the fight for racial justice, including research and targeted advocacy campaigns. The Institute also houses LDF’s Archives—a collection of materials chronicling the legal history of the Civil Rights Movement.

The Prisoners Legal Advocacy Network (PLAN) is a non-profit organization that provides cost-free legal advocacy, services, and support to incarcerated individuals nationwide. PLAN’s inside-outside coalitions of jailhouse lawyers, prison paralegals, directly impacted outside advocates, and attorneys work to defend and expand the legal rights of presently and formerly incarcerated individuals so that those who are directly impacted by the U.S. criminal legal system can live with dignity and without fear. Thank you to the PLAN jailhouse lawyers, prison paralegals, formerly incarcerated advocates, law clerks, and attorneys who helped conceptualize and develop this resource.

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