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ALL VOTING IS LOCAL

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Ensuring that Eligible Voters in Florida Jails Have Access to the Ballot

Introduction

The right to vote does not end at the door of a holding cell. State laws require eligible voters in jail to be able to cast a ballot. People who are in jail are often awaiting trial, conviction, or are being held for misdemeanor crimes.



In Florida, as in most states, these individuals are eligible to register and vote, and no eligible voter should be denied their right. Yet there is a sharp difference between being simply eligible to vote or register and being able to make one's voice heard.

In 2020 and 2021, All Voting is Local Florida and the ACLU of Florida teamed up to assess how difficult it is for eligible voters in Florida jails to cast a ballot. We wanted to know: Did county jails have policies and procedures to facilitate the voting and registration of eligible voters in jails, and did they cooperate with volunteers who sought to provide those services?

We found that most counties have no written policies to facilitate elections in jail. Even for those that do have policies, important steps or details are missing.

Formal policies for voting procedures in jails are crucial. These policies provide a written affirmation that most people who are in jail have the right to vote and that the staff at jail facilities are held accountable to protect that right. Without codified policies and practices, counties risk inconsistent and unfair approaches, as well as constitutional violations.

Having written policies in place is the first step toward ensuring long-term voting access. There are no uniform procedures for voting in jail in Florida, and no jails have codified procedures for collaborating with third-party voter registration organizations.

Neither the Florida Constitution, Statutes, or Administrative Code directly address the issue of whether pretrial detainees or convicted misdemeanants being held in jail within the county of their residence are entitled to vote by mail ballots in primary and general elections. However, Article VI, Section 2 of the Florida Constitution provides that any Florida resident who is at least 18 years old and a U.S. citizen, who is legally registered, has the right to vote in public elections in the county of his or her residence, with several exceptions detailed in [Article VI, Section 4](#). The process for voting by mail, which applies to all registered voters, is detailed in [Florida statutes](#). State lawmakers should consider the adoption of policies that would create more uniformity over policies to ensure that eligible voters being held by jails are able to vote.

Findings

We used data from public records requests to jails in Florida's 67 counties, of which 23 counties, roughly one-third, responded. County jails provided us with documents given to incarcerated Floridians regarding voter registration, voting by mail, rights restoration, as well as policies relating to visitation, mail, telephone use, and the use of electronic devices such as tablets.

Through our review of these responses, we found that most counties have no written policies to facilitate elections in jail and that for those who do have policies, key steps or details are missing. In most cases, jails include instructions on how to seek information about voter registration and voting by mail in their inmate handbooks.

Every jail should have written voting policies and procedures provided to those in their care. Those jails that already do provide written policies should ensure they include, at a minimum, information such as a point of contact for assistance, steps for voter registration, steps for updating address information on the voter file, contact information for all 67 supervisors of elections, detailed instructions regarding vote-by-mail and key deadlines, identification

requirements, designee options for both receiving and returning ballots to the supervisor of elections, as well as details on the rights restoration process following the completion of their sentence.

Incarcerated voters should also be provided with unbiased voter guides, ideally from the supervisors of elections. All information jails provide in English should also be provided in Spanish, at minimum. Only one jail provided materials in Spanish. Some counties, such as Lee, Marion, and Seminole, are taking positive steps to make voting information accessible digitally on kiosks. Pasco goes one step further by allowing access to tablets through which one can register to vote online and get voter information.

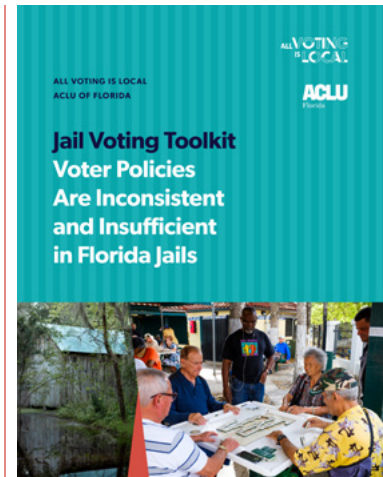


Only one of the counties (Manatee County) that responded to our records requests had stated policies regarding election mail correspondence. Most counties have a “privileged mail” policy which offers additional privacy to mail correspondence with courts, lawyers, and other officials. However, no documents made clear that election-related mail fell into this category of privileged mail. Even mail considered privileged by several counties, such as Okeechobee and Pasco, may be held for up to 72 hours, while Seminole County holds this mail for only 24 hours. It is critical that voters are able to receive and send mail to the supervisor of elections in a timely manner, particularly close to deadlines for voter registration, requesting a vote-by-mail ballot, and election day. In Florida, vote-by-mail ballots are rejected if they are not received by 7 p.m. on election day, even if they are postmarked by election day.

A jail’s mail policy must also guarantee privacy protections. Jail staff should also be required to open the mail in front of the voter and should be prohibited from reading the incoming or outgoing mail. Jails should also have an indigent policy in place to ensure that postage is covered for election mail if a voter lacks sufficient funds. Election mail also should not be subject to size or shape limitations.

No counties appear to be tracking those in the jail’s care who requested voter registration materials, who registered to vote, who requested vote-by-mail ballots, who cast ballots, or who requested and received language assistance in relation to voting. Each of these steps should be tracked along with demographic data such as race, ethnicity, nation of origin, and age. Tracking this data is important to determine whether efforts to make voting accessible in jails are effective.

Each year, at least 350,000 people are booked into local jails in Florida.¹ If the state is not collecting basic information and counties do not have universal policies and procedures to facilitate jail voting, people who are confined are likely experiencing de facto disenfranchisement.



If you are a jail voting advocate/volunteer, check out the [All Voting is Local Jail Voting Toolkit!](#)



¹ [Prison Policy Institute](#)

The results demonstrate that Florida jails vary widely in both their written policies and their procedures for people to vote in jail. There are three major issues at hand:

1 Barriers

Most individuals in jail are eligible to vote but often face barriers that make voting difficult, if not impossible.

2 Equal Opportunity

Florida institutions have a long way to go to ensure that every eligible voter has an equitable opportunity to register to vote, cast a ballot, and have that ballot counted.

3 Access

Protecting the freedom to vote means ensuring that voters in jail don't need to jump through impossible hoops to cast their ballot.

Advocates, community partners, and affected voters can work together to hold officials accountable to ensure policies that protect the freedom to vote. This work must be done alongside county supervisors of elections, jail facilities, and county administration to rectify the inadequate state of voting in jails across Florida.

Officials must codify policies that permanently allow trained nonpartisan volunteers to enter county jail facilities in person, register incarcerated voters, inform them of how to access their right to vote while incarcerated, and complete applications for vote-by-mail ballots. Ideally, officials must ensure that voters get the resources they need to cast a ballot that counts from trained staff either in the jails or directly from the county supervisor of elections staff.

This work serves as a building block. After codifying policies and procedures that work in Florida jails, we will advocate for the advancement of statewide policies to ensure that every voter has access to the ballot. Encounters with the criminal legal system should not infringe upon a person's crucial right to vote.

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Recommendations

Sheriffs and jail administrators should take the following immediate steps to ensure eligible voters in their jails have access to the ballot:

- 1. Develop a formal policy regarding voter access.** Every county jail should have a formal policy that acknowledges the right of eligible electors to vote from jail. These policies should address each of the recommendations included in this report. This will help ensure consistency across every election and help ensure that procedures to facilitate jail voting do not go away if there are leadership changes in the jail.
- 2. Designate and train an employee** (e.g., a social worker or correctional officer) who will support access to the ballot for eligible voters in their care.
- 3. Provide access to information.** Jail administrators must provide every eligible Floridian in their care with relevant election dates and deadlines, as well as opportunities to learn what issues and candidates are on their ballot. Jail administrators should look to the Florida secretary of state for information related to dates and deadlines. They should provide nonpartisan issue and candidate information to interested voters through educational materials. This information should be provided proactively and not simply in response to requests from individuals in the jail's care. Jail administrators may consider providing information through closed-circuit television, fliers, poster displays, and the jail handbook.
- 4. Verify voter eligibility.** Every jail must have a written policy for informing individuals in the jail about voter eligibility rules and for verifying whether an individual is eligible to register and vote.
- 5. Provide opportunities for voters to check their registration status or register to vote prior to the 30-day book closing deadline ahead of every election.** The easiest way is to allow access to computers where voters can check and update their status online at registertovoteflorida.gov. In jails where individuals are not typically permitted free access to the internet, exceptions should be made for checking and updating voter registration status. As an alternative, trained nonpartisan volunteers should be allowed into the facility to administer paper forms of voter registration. As a government entity, the jail can provide voters with an acceptable proof-of-residence document with their home address. This can be an extremely helpful way for jails to assist with the voter registration process. For all paper voter registration applications, county jails can hand-deliver the application in person or coordinate pickup with the supervisor of elections staff.





6. Provide opportunities to request a vote-by-mail ballot. People who want to vote from jail must be given an opportunity to request their vote-by-mail ballot. This is particularly important under the risks associated with COVID-19. In addition to protocols facilities are undertaking to protect the health and safety of persons in their care, jail administrators should ensure voters may safely access the ballot. Jails can facilitate vote-by-mail ballot requests by permitting access to staff of the supervisor of elections office and third-party groups. In jails where individuals are not typically permitted free access to the internet, exceptions should be made for registering to vote and requesting a vote-by-mail ballot. Voters should also be provided the option of using the county supervisor of elections paper form.

7. Provide opportunities to cast a ballot on election day. If a voter is jailed after the deadline by which they can request a vote-by-mail ballot, jail administrators must ensure a process by which they can vote at the polls on election day or by which jail staff can act as a designee to pick up a vote-by-mail ballot.




8. Verify every voter's ballot was counted. Every person who votes from jail must have an opportunity to verify their vote was counted. This means having the opportunity to check the status of their ballot on the supervisor of elections website to track their ballot. In jails where individuals are not typically permitted free access to the internet, exceptions should be made for verifying that their ballot was counted. Voters should also be provided with the opportunity to check that their vote was counted by making a free phone call to their county supervisor of elections.

9. Track registration and turnout. Every county jail should have a written process for tracking and making publicly available data regarding voter registrations, ballot requests, and ballots returned by those under their care. While we recognize that some jail-based requests will not be fulfilled due to residents' release, these numbers are important for future analysis.







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ALL VOTING IS LOCAL fights to eliminate needless and discriminatory barriers to voting before they happen, to build a democracy that works for us all. It is a collaborative campaign housed at The Leadership Conference Education Fund and The Leadership Conference on Civil and Human Rights.

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