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Trading Democracy for Justice: Criminal Convictions and the Decline of Neighborhood Political Participation

Trading Democracy
Criminal Convictions of Neighborhood

The publication of a first book is always a big milestone in an academic career, and this past fall, with the release of her *Trading Democracy for Justice: Criminal Convictions and the Decline of Neighborhood Political Participation* (University of Chicago Press), ABF's Traci Burch celebrated just such an occasion. Burch, who joined the ABF faculty in 2007, the same year she took a joint appointment as Assistant Professor of Political Science at Northwestern University, spent several years on the project, which grew out of and expanded upon research she conducted while earning her Ph.D. in Political Science at Harvard University. As its title implies, the book is an in-depth study of the effects of mass incarceration on the political participation not only of individuals directly under criminal justice system supervision, but also their families, neighbors and communities

But more than a career milestone, as well as an important contribution to the scholarly literature of political science, the book also represents a new addition to the work of ABF scholars on the American criminal justice system and its broad effects on society. Incubated and supported by ABF, this work is characterized by open inquiry, data-driven findings, and an interdisciplinary nature. From John Hagan's investigations of the effects of the incarceration of parents on children, adolescents and communities, to Tracey Meares' (now at Yale Law School) empirical work on community policing, criminal procedure and criminal law policy, to James Heckman's research on human capability formation and its effects on crime, health, and education, to Janice Nadler's research on the psychology of legal blame, ABF researchers continue to build a body of work that encompasses the intersections between law, society, politics and culture, providing fresh insights into how the American criminal justice system actually operates in society, and where and how it might be improved.

Collateral and Concentration Effects of Mass Incarceration

In particular, Burch's book contributes to a growing literature on the "spillover" effects or "collateral consequences" of mass incarceration. Prompted by the high rate of incarceration in the United States, scholars are

for Justice: and the Decline Political Participation

studying a variety of effects of the incarceration of individuals on the broader society. It is well documented that since the mid-1970s rates of incarceration have grown exponentially in the United States. As Burch points out, "Today, the United States' system of criminal justice ranks among the world's most punitive…the US adult incarceration rate for all levels of government, at 731 per 100,000 adults as of 2010, is the highest in the world, surpassing even that of Russia."

As a political scientist, Burch is interested in the effects of this level of incarceration on political participation. She concedes that her approach to the question is unusual, and at the same time explains the advantages of her approach: "Most political scientists would argue that a criminal justice system that supervises a little more than three percent of the adult population should not affect political outcomes in any real sense. However, such arguments ignore the fact that criminal justice interactions are demographically and spatially concentrated." And this is the crux of her argument, as she explains: "What appears to be a small percentage of adults nationally represents a high percentage of residents in many neighborhoods; because of the concentration of criminal justice interactions within these geographically bounded spaces, as many as one-third of residents in disadvantaged communities can be under criminal justice supervision at any given time."

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But Burch's inquiry goes further than studying individual offenders' lack of political participation. She is also interested in the effects of high rates of incarceration

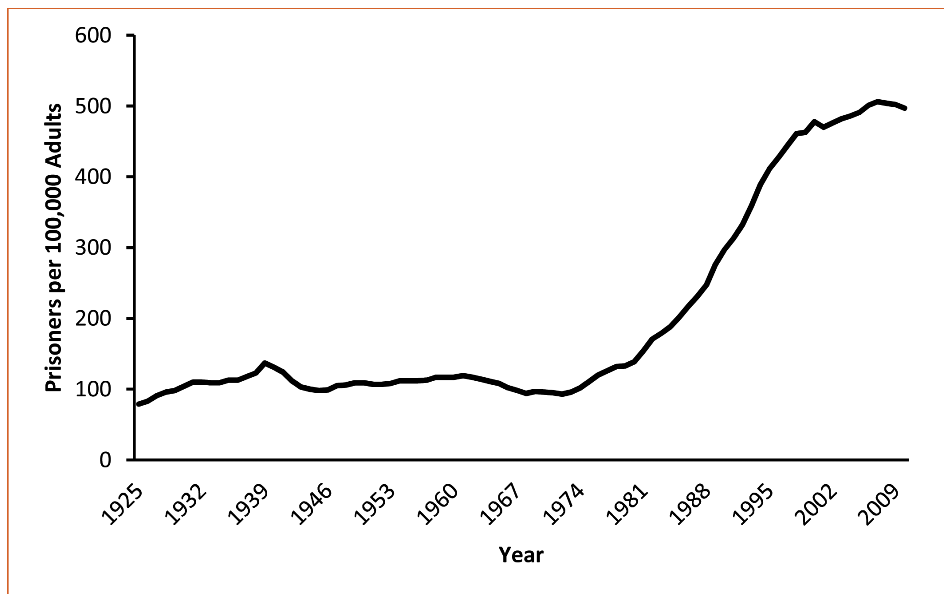


Figure 1: U.S. incarceration rate, 1925–2009

in communities on residents of those communities who are not themselves convicted of crimes. As she argues, "concentrating a large number of convicts whose civic and political capacity has been devastated by criminal justice supervision in a neighborhood diminishes the ability and desire of all neighborhood residents to participate in politics."

The Data and Findings

To test her hypothesis Burch collected a large volume of neighborhood-level data, focused on the states of Georgia and North Carolina. The data come from state boards of elections, departments of corrections, departments of public health, market research firms, and the Census Bureau. The data concern "political participation, political attitudes, crime, imprisonment, probation, parole, and disfranchisement." As Burch explains, by combining these data with additional survey data she is able to "employ advanced statistical techniques such as matching and regression analysis to avoid problems such as selection and omitted variable bias that often plague neighborhood-level studies, making it possible to make strong causal inferences…The result of this massive effort is the combining of voter registration and history records, criminal records, and geographic data into a dataset on which spatial analyses can be performed."

In Chapter 3, Burch examines the data to establish the extent of prisoner density in the neighborhoods under study. Georgia and North Carolina contain disadvantaged neighborhoods with very high rates of incarceration, according to Burch. In North Carolina the rates in these neighborhoods are almost ten times the national average, and in Georgia fourteen times the national average. In particular, while the national average is .43 prisoners and 1.42 probationers per square mile, in the block groups in Burch's study imprisonment density ranges from "no prisoners to 470 prisoners per square mile in Georgia and from no prisoners to 260 prisoners per square mile in North Carolina." In addition to Atlanta and Charlotte, Burch examined neighborhoods in Durham, Greensboro and Raleigh in North Carolina, and in Augusta, Macon and Savannah in Georgia, and found similar patterns of the spatial concentration of incarceration in all of them.

In Chapter 4 Burch subjects the data to three statistical analytic tests—1) of voter turnout and neighborhood prisoner density; 2) of voter turnout and new prisoner admissions, and 3) analysis of the behavior of individual voters in the neighborhoods under study. The first analysis finds "a statistically significant and strongly negative relationship between the spatial concentration of imprisonment and voter turnout in Georgia and a curvilinear relationship in North Carolina." The second test "shows that prison admissions

All figures from T. Burch, *Trading Democracy for Justice: Criminal Convictions and the Decline of Neighborhood Political Participation* (University of Chicago Press, 2013)

also seem to diminish voting: in 2008, neighborhoods from which at least one person was sent to prison before the general election had lower voter turnout than those neighborhoods from which a person was sent to prison after the general election…[even] when controlling for a number of neighborhood-related factors." Finally the third analysis, that focusing on individual voters, shows that "residents of high-imprisonment neighborhoods were statistically significantly less likely to vote and undertake other political activities than people living in lower-imprisonment

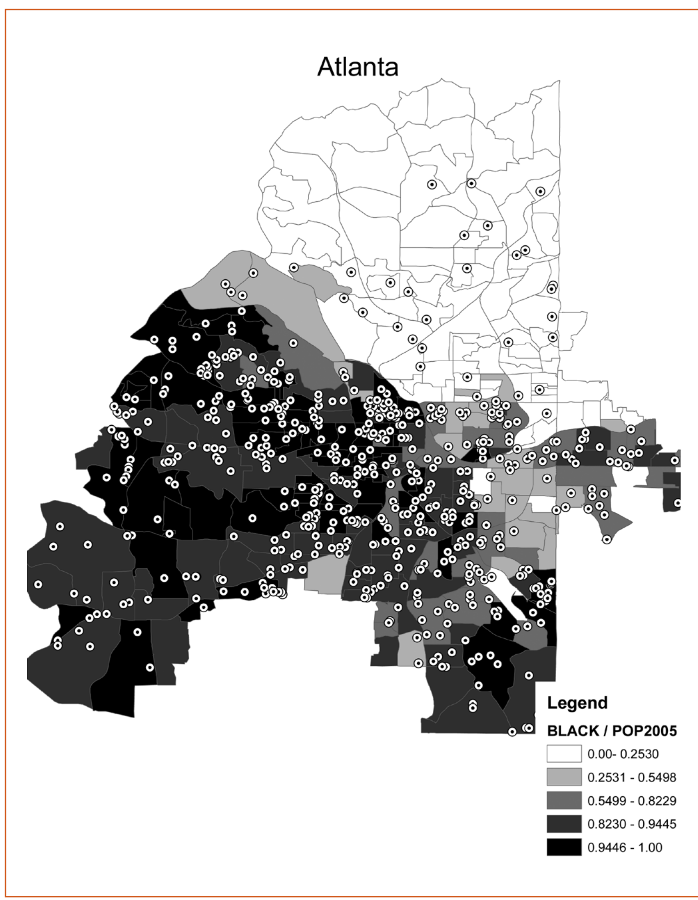


Figure 2a: Atlanta, Georgia, showing imprisonment incidents over a six-month period in 2005, superimposed over block groups that have been shaded by the percentage of black residents.

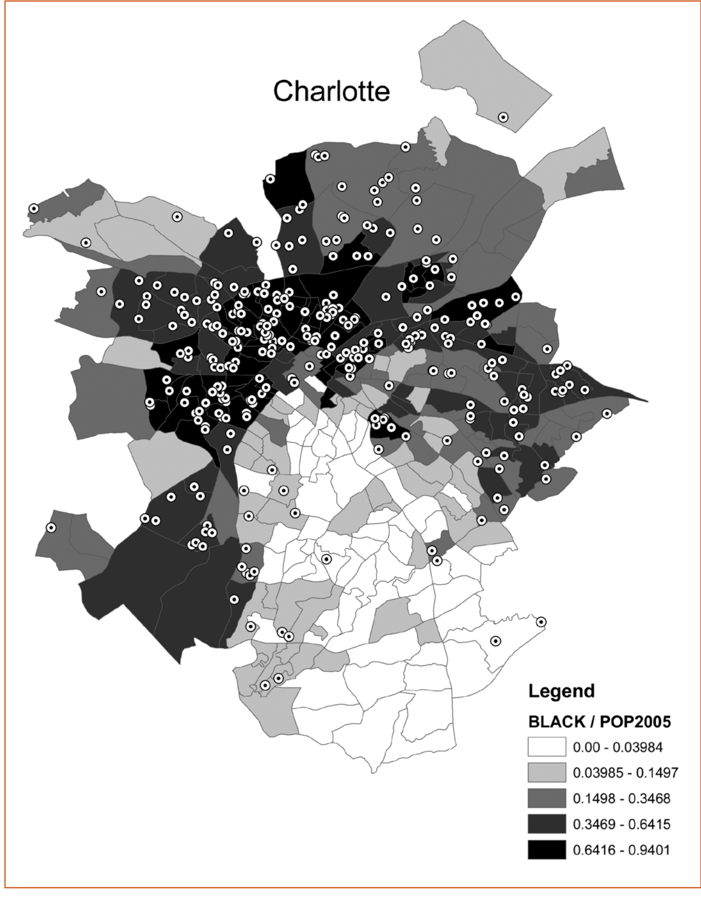


Figure 2b: Charlotte, North Carolina showing imprisonment incidents over a six-month period in 2005, superimposed over block groups that have been shaded by the percentage of black residents. Charlotte and Atlanta are just two of many communities in North Carolina and Georgia that display marked concentration of incarceration in certain neighborhoods.

Concentrating a large number of convicts whose civic and political capacity has been devastated by criminal justice supervision in a neighborhood diminishes the ability and desire of *all* neighborhood residents to participate in politics.

neighborhoods…Living in a neighborhood at the highest level of imprisonment decreased the likelihood of voting by 73.4 percent." Additionally, Burch finds that people who live in high imprisonment neighborhoods are "less likely to trust people in general and their neighbors in particular and are less likely to feel a sense of community based on neighborhood ties that encourage political participation."

Mechanisms of Voter Turnout Suppression

After discussing and analyzing her data, Burch moves on in Chapter 5 to examine the possible mechanisms by which high concentrations of criminal justice supervision may suppress voter turnout. She examines her evidence through the lens of the four main theories of mechanisms—cultural deviance, social disorganization, resource deprivation, and demobilization—that social scientists have theorized contribute to poor voter turnout, her aim being "to rule out any of the mechanisms that are not supported by the evidence." After analyzing answers from the Social Capital Benchmark Survey Burch concludes that "cultural deviance" is the least likely mechanism. That is, that people in high imprisonment neighborhoods are no more likely to express distrust in government or the police than residents of low-imprisonment neighborhoods. The other variables —social disorganization, resources deprivation and demobilization do seem to contribute to voter turnout suppression, though no one of these factors could be identified as the sole mechanism.

Burch concludes the chapter with a discussion of the significance of these mechanisms for potential solutions. As she explains, the causal mechanisms run in both directions: "there probably is a reciprocal relationship between imprisonment and the economic situation and social disorganization of neighborhoods. However, the fact that imprisonment, poverty, and social disorganization are mutually reinforcing does not affect the main argument of this book, which is that imprisonment demobilizes neighborhoods by contributing to the extent to which neighborhoods experience these social ills. The analyses in this chapter, coupled with those presented in previous chapters, point to the weakening of the formal and informal networks of the community—social disorganization and lack of mobilization—as likely culprits. Imprisonment-related economic decline may be a contributing factor as well."

Can Mobilization Help?

After analyzing and discussing her quantitative data, Burch then turns in Chapter 6 to a different method, which she used in the second major phase of her study. Having documented the extent of low voter turnout in disadvantaged neighborhoods, Burch and several graduate student assistants conducted fieldwork in Atlanta, Charlotte, and Chicago "in order to get a sense of the extent to which partisan and non-partisan organizations attempted to mobilize disadvantaged places" during the months leading up to the 2008 general election. To understand better how these organizations operated in such neighborhoods Burch and team became "participant observers" during neighborhood polling, community events and rallies. They also conducted interviews with organizational directors and staff.

More than 2 million incarcerated individuals, many of whom come from a relatively small number of disadvantaged communities, are counted as residents of predominantly rural communities in which they had no rights or representation.

The future of American democracy depends on society's ability to mitigate the impact of thirty years of unprecedented levels of imprisonment on the political behavior of present and coming generations.

The fieldwork confirmed that, for the most part, political parties "are not inviting residents of disadvantaged communities to get involved in politics." When parties and politicians did reach out, they used methods that were unlikely to reach citizens in these neighborhoods, Burch found. For example, political organizations were most likely to try to contact already-registered voters by canvassing door-to-door or through direct mail, e-mail, or phone banking, tactics that do not work particularly well in reaching citizens who may change residence frequently, keep unusual hours, and lack internet or even phone access.

By contrast, non-partisan organizations "focused less on at-home contacts than on voter registration drives, voter training sessions, and rallies." In many cases, service provider organizations already had contacts with young people, ex-felons, renters, etc. and knew where to find them, often "at church, in stores, on campus, or at social events," Burch explains. Other methods that were used with some success included events that incorporated registration and early voting, often held in conjunction with free concerts, block parties and high school registration drives. Same day registration and early voting were particularly efficient and effective, as they did not require follow up "get out the vote" visits.

As Burch points out as well, political parties are likely to shift their resources based on electoral considerations, thus making them an unlikely player in any sustained political mobilization of disadvantaged neighborhoods. She sees non-partisan organizations, with their pre-existing ties with and knowledge of disadvantaged communities, as better candidates for investment by those who wish to mobilize these communities. As she argues, "investing in these grassroots organizations, allowing them to professionalize and expand their staff and put on more events, might be the best way to counteract the demobilizing effects of the criminal justice system."

State Police Power and Citizen Political Power

Before Burch began her book project, researchers recognized felon disfranchisement as the only criminal justice mechanism that suppresses voter turnout. As Burch points out, "this preoccupation with disfranchisement comes at the expense of ignoring the more important consequences of convictions that are described in this book." Thanks to her methodological contributions—which help to begin to solve "some of the issues surrounding the study of convicted populations, such as data constraints, selection bias and confounded causal relationships"—Burch has been able to move the study of voter turnout suppression forward. But much more work remains to be done, she notes.

Burch's work has begun to show the extent to which government shapes the polity. The spatial concentration of conviction and imprisonment in certain neighborhoods influences the size and composition of the electorate and the degree of its political activity, first by removing some voters through imprisonment, and second, by weakening the already-frayed social fabric of these communities, with, as Burch has demonstrated,

negative consequences for voter turnout among law-abiding, non-incarcerated citizens.

Other than its effects on voting, incarceration also affects political representation and the allocation of government resources, Burch contends. Convicts are usually imprisoned at some distance from their home communities, often in rural areas, Burch notes, and the census bureau's practice is to count prisoners in the group facilities where they reside, rather than in their home neighborhoods. "As a result," Burch explains, "more than two million incarcerated individuals, many of whom come from a relatively small number of disadvantaged communities, are counted as residents of predominantly rural communities in which they had no rights or representation… This administrative decision creates important disparities in the apportionment of state and federal legislative districts, padding the population base in rural areas relative to urban ones…This statistical relocation of prisoners also results in a massive transfer of resources from predominantly minority, disadvantaged communities to predominantly white, rural ones."

In addition, because they are not present in their home communities, prisoners are not included in census information about "income, educational attainment, poverty, health, and other data." Such exclusion "skews the picture of neighborhood health and resources given by official statistics," Burch reports.

Potential Solutions

As Burch argues throughout her book, political mobilization of neighborhoods has the potential to offset the negative effects of concentrated incarceration. At present, it is certainly a more viable alternative than "decarceration," Burch states. Aside from any objections that might be raised on the state or national level to movements to reduce the rate of incarceration, by no means do all members of the communities most impacted by incarceration support such measures. Most residents of disadvantaged neighborhoods can see both the negative and positive effects of keeping offenders out of neighborhood life, according to Burch. Thus, Burch speculates, "given these practical and political considerations, it seems unlikely that decarceration will emerge as a viable solution to the problems raised in this book in the near future." In contrast, neighborhood political mobilization is a cheaper and less politically contentious solution than decarceration, Burch argues.

As Burch concludes, "the current system of imprisonment as practiced in the United States today undermines political equality and democratic inclusiveness." She concedes that "reasonable people disagree on the politics of punishment"—many argue that "putting away people who commit crimes against society in prison is simply a question of justice, of right and wrong." However, Burch's argument as presented in the book is that "concerns about individual offenders are not the only factors that matter when thinking about criminal justice policies. It is also important to consider the impact that punishment has on political equality in general." According to Burch, no less than "the future of American democracy depends on society's ability to mitigate the impact of thirty years of unprecedented levels of imprisonment on the political behavior of present and coming generations."

For the most part, political parties are not inviting residents of disadvantaged communities to get involved in politics.

If you are interested in supporting research on the political effects of incarceration or other important ABF initiatives, please contact Lucinda Underwood at 312.988.6573

Traci Burch is a Research Professor at the American Bar Foundation and an Assistant Professor of Political Science at Northwestern University. She holds an A.B. in Politics from Princeton University and a Ph.D. in Government and Social Policy from Harvard University. Her dissertation, "Punishment and Patricipation: How Criminal Convictions Threaten American Political Democracy," won the American Political Science Assocation's award for best dissertation in both American Politics and Urban Politics and won Harvard University's award for best dissertation in political science. Burch's scholarly work has been published in many peer-reviewed journals such as *Political Behavior*, *Law and Society Review*, and *Criminology and Public Policy*, and she is a former Associate Editor of the ABF's journal *Law & Social Inquiry*. Her book *Trading Democracy for Justice: Criminal Convictions and the Decline of Neighborhood Political Participation* was published by the University of Chicago Press in August 2013. Burch's current ABF research includes projects on mass incarceration, racial categorization, and interest group participation in the Supreme Court.

An Interview with Traci Burch

Researching Law: You grew up in Macon, Georgia, where your father works for the county jail, and where, as you say in the introduction of the book, the effects of poverty, unemployment and incarceration loom large. Did coming of age in Macon prompt you to write the book that you did?

TB: I didn't start out the project with Macon in mind; I started the project because I was in graduate school and as an intellectual matter, I saw the need for a new kind of research. But then the more I got into it the more I realized that the criminal justice system has been a big part of my life for my whole life, both because my dad works in it, but also because I have a cousin or two who've been to prison. It was a mundane part of my life for so long I didn't realize how much influence it had on me until I started to write and to reflect on the book for the presses as well as on my motivations for studying inequality. That's more how I'm thinking about where I come from—my general interest in inequality and how cities can structure opportunity and take opportunity away. And so I'm interested in our broader structures of neighborhoods and cities and not just identifying the problems, but also how those structures might also give opportunities to people. So I think that's more where Macon comes in.

RL: How does your work most differ from that of other scholars who study mass incarceration?

TB: I would say that I'm probably the first person to really look closely at the political effects of incarceration. There has been a lot of work that tries to measure things like how sending people to prison shapes teen pregnancy, or health, or family structures or other kinds of outcomes. But usually in that work politics is mentioned only very briefly and very generally with no data or analysis. So I'm the first scholar to think in depth about incarceration with respect to politics. I also think I have better data than most; I'm the first to look systematically at whole states, rural areas, suburbs, as well as inner cities and to sit down and think about how to quantitatively measure causal effects. In that sense I think I've made some methodological contributions as well.

RL: Does your work differ in other ways from the work of other political scientists?

TB: Yes, definitely. I tend to look at things more broadly; I'm the first political scientist to consider the criminal justice system as a phenomenon that affects the political behavior of the broader society. Most political scientists don't think much about social causes or neighborhood effects. The few political scientists who consider the criminal justice system and its effect on voting focus on ex-felons and their participation. For the past 10–15 years especially you don't really see much use of neighborhood-level data in the political science literature.

RL: How did you come to have an interest in studying political behavior on the neighborhood level?

TB: Rob Sampson, who used to be a Research Professor at the ABF from 1994 to about 2001, was part of my social policy Ph.D. program at Harvard. In addition to his ABF appointment, Sampson was on the Sociology faculty at the University of Chicago, along with William Julius Wilson. They migrated to Harvard from Chicago and brought with them that interest in neighborhood and social context. I did my research prospectus seminar with Sampson and learned a lot and I think that's how I really got involved in thinking about neighborhoods and the larger effects of neighborhood structure on politics. So you could say I had some ABF influence even before I came here—by that I mean an interest in looking at political participation and the criminal justice system in an interdisciplinary fashion. Through Sampson I was also exposed to the kind of complex research projects that are encouraged at ABF. I think most scholars just don't study neighborhoods because they're really hard to study. It is difficult to think through all the different phenomena that might affect behavior based on where you live. It's hard to measure.

RL: How did you get started on your book? Does the book come out of your Ph.D. dissertation?

TB: Somewhat—I started working on this topic back when I was in graduate school at Harvard and the dissertation was more focused on ex-felons themselves, so I spent about half the dissertation focused on ex-felons and then the other half shifted toward the idea of what I talk about in the book, but I didn't have the money or the time to gather and analyze all of the neighborhood data when I was a grad student. So that's what I was able to do when I started at the ABF- I was able to really focus on the neighborhood aspect of the effects of incarceration on voting, and collect the kind of data I needed to do the project that really interested me, which is the project that comes out of the book—and not talk only about ex-felons.

RL: Were you always interested in voting; when you were looking at ex-felons was it always about their voting behavior?

TB: It was. So the first couple papers that I wrote that did come more directly from the dissertation were trying to measure ex-felons and whether they voted in 2000, 2004 and 2008 in different states, and also—given the fact that I found that they voted less—trying to think more specifically about

how much of that low turnout had to do with them personally—that is, factors that are common to ex-felons as a group—versus their experience with the criminal justice system. And the second part of that was also trying to measure what effect ex-felon disfranchisement had on voting in the 2000 presidential election, and specifically whether George W. Bush would have won the state of Florida if ex-felons in Florida had been allowed to vote (I found that yes, G.W. Bush probably would have won Florida even if ex-felons had been allowed to vote). After those few articles, I stopped working on ex-felon voting behavior; that was the end of it. The dissertation was more focused around those kinds of questions. My work on neighborhoods was a departure.

RL: Can you tell me more about your next research project?

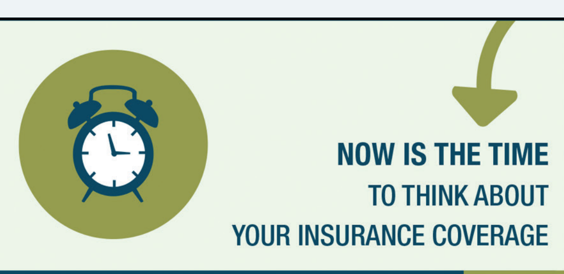
TB: I want to look more at neighborhoods. But this time I want to look at a different type of factor that's structuring how neighborhoods influence political participation, one that I became more aware of while researching and writing the book, and that I discuss in chapters 6 and 7 of the book. And so I'm looking at organizational capacity and civic engagement and structures in neighborhoods that can help people participate. I want to look at schools and churches and civic organizations and the like. I want to look at how neighborhoods vary with respect to the presence or absence of organizations and the prospects for making neighborhoods stronger in terms of developing civil society. What are the prospects for making the civic life of neighborhoods stronger?

RL: Do you know which neighborhoods you are going to look at?

TB: My ambitious goal is to start with the entire United States, because I can download the block group files and the IRS data for the entire country. Now that I've said that I'm not sure; there are roughly 300,000 block groups in the United States, and I don't know if I have the computing capacity or time to do it! But that's just the first piece of it; right now I'm in the process of writing an exploratory paper that will help define the parameters of the study.

RL: A major goal of ABF's research program is to contribute to the understanding and potential improvement of law, legal institutions and legal processes. How does your research contribute to this effort?

TB: I hope I've begun to show some of the unintended consequences of criminal justice processes on voter participation. Given the high rate of incarceration in this country, the criminal justice system is one important factor that influences political behavior. On the neighborhood level I've also begun to identify non-partisan organizations and civic structures that may help mitigate some of the negative effects of incarceration on political participation. To the extent that political participation matters to civil society, a functioning democracy and the rule of law, this is something important to study.



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