



For more information about prison-based gerrymandering, see our website and weekly newsletter at <http://www.prisonersofthecensus.org>

10 Calif. Counties Reject Prison-Based Gerrymandering

The Supreme Court requires counties to update their legislative districts once per decade so that each district contains the same population, giving each resident equal representation in county government. The US Census Bureau counts people where they are incarcerated, not where they live, and when the Census figures do not reflect the county's population, democracy suffers.

California law gives counties the discretion to choose the population base used for redistricting. The decision to exclude the prison populations in the redistricting scheme therefore belongs to each county. Most of California's counties with large prisons reject the Census and fairly apportion political power within the county on the basis of actual — not prison — populations. Ten California counties correct the Census count,

removing the prison population before redistricting to avoid diluting the votes of county residents who do not live near a prison: Amador, Del Norte, Imperial, Kern, Kings, Lassen, Madera, Monterey, San Luis Obispo, and Tuolumne counties.

Example counties:

In Lassen County, including the prison population would have meant a district that was entirely disenfranchised prisoners with no possibility of representation.

In Kern County, the County Clerk told us that the prison population was excluded from the districts because "prisoners can't vote and don't receive local services."

Excluding Prisoners Makes Sense and Conforms with California Law

In 1991 the California Attorney General's office issued an opinion letter specifically confirming that counties are free to exclude the prison populations for the purposes of redistricting.

The opinion letter states that the policy of excluding prisoners for redistricting "embodies a legitimate state interest of maintaining voting strength among voters of the various districts," and goes on to describe the distortion of voting power that can be caused by including prisons populations in county supervisory districts.

This letter also reaffirms what is already clear from California law—a prison cell is not a residence. California Election Code §2025 states that "[a] person does not gain or lose a domicile solely by reason of his or her presence or absence from a place while... kept in an almshouse, asylum or prison."

See: California Attorney General Op. No. 91-601, 1991

Most counties with large prisons exclude those populations when creating County Supervisory Districts. Unfortunately, at least two counties with comparatively smaller prison populations failed to correct the Census Bureau's prison miscount. For example, 11.3% of Solano County District 4 is incarcerated at the CSP Solano and California Medical Correctional Facility. As a result, every group of 9 people who live in District 4 were granted as much influence as 10 people in Solano's other districts.

Ideally, the Census Bureau would count incarcerated people as residents of their home communities. But until then, all California counties should follow the lead of Kern and 9 other counties with large prisons. Counties should base representation on actual residents, not prison populations.