

Ending prison gerrymandering

Changing the Census Bureau's prison count methodology would improve democracy across the country

<http://prisonersofthecensus.org/>

<http://demos.org/issue/redistricting-representation>

The Supreme Court's "one person, one vote" principle requires state and local electoral districts to be redrawn each decade so that each district contains the same number of people, giving each resident the equal access to government. A long-standing flaw in the decennial census, however, counts more than two million incarcerated people in the wrong place, undermining the "one person, one vote" principle. Although incarcerated people cannot vote at correctional facility locations and remain residents of their home addresses, the Census Bureau tabulates people in prison as residents of their prison cells, not their homes. This leads state and local governments to engage in "prison gerrymandering" by drawing skewed districts that dilute the votes cast by everyone who does not live near a prison.



The problem at the state level

Crediting all of a state's incarcerated persons to a small number of districts that contain large prisons enhances the weight of votes cast in those districts and dilutes all other votes in the state, distorting policy decisions statewide. In addition, using incarcerated populations — which are disproportionately Black and Latino — to pad the populations of other districts dilutes minority voting strength.

The problem at the local level

Because rural county and municipal districts are smaller than state legislative districts, prison gerrymandering can create even larger problems on the local level. For example:

- **Dysfunctional local districts.** In Anamosa Iowa, a person won a city council seat with two write-in votes, neither of which he cast. No candidates ran because 96% of his district was incarcerated in a large prison. This gave the handful of actual residents in the district 25 times as much influence on the city council as residents elsewhere in the city.
- **"Majority-minority" in name only.** Prison gerrymandering prevented African-American voters in Somerset County Maryland from electing a candidate of their choice, even though a district had been drawn for that purpose to settle a Voting Rights Act lawsuit.

States and localities are seeking more accurate data

So far, four states — Maryland, New York, Delaware, and California — have passed legislation to use state correctional data to ensure that districts are drawn with data that counts incarcerated people at home. The laws in Maryland and New York have already been implemented and upheld by the courts; the U.S. Supreme court affirmed Maryland's law in 2012.

Further, the legislative or executive branches in several states (such as Colorado, Michigan, Mississippi, New Jersey and Virginia) require or encourage local governments to refuse to use prison populations as padding by modifying the Bureau's redistricting data. In addition, more than 200 counties and municipalities independently adjust the redistricting data to avoid prison gerrymandering.

Only the Census Bureau can provide a permanent national solution

While many governments benefited from the Census Bureau's 2010 decision to make it easier to identify incarcerated populations in its redistricting data, other jurisdictions are constrained by laws that do not allow such adjustments.

The Census Bureau can achieve a complete and permanent solution to prison gerrymandering for the 2020 Census by revising its "usual residence" rule to tabulate incarcerated persons in the communities where they resided prior to incarceration. A change in the Census Bureau's methodology would make prison gerrymandering a thing of the past.