



The Census Count and Prisons: The problem, the solutions and what the Census can do

The Supreme Court's "one person, one vote" cases require state and municipal districts to be redrawn each decade so that each district will contain the same number of people and each resident will therefore have the same access to governments. A long-standing flaw in the decennial census counts more than 2 million people in the wrong place and undermines the "one person, one vote" principle. Although people in prison can't vote and remain residents of their home addresses, the Census Bureau counts people in prison as residents of their prison cells, not their homes. Using this flawed data to draw legislative districts grants the people who live near large prisons extra influence at the expense of voters everywhere else.

For more information about Prison-Based Gerrymandering, see the Prison Policy Initiative website and weekly newsletter at <http://prisonersofthecensus.org>

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The Problem at the State Level

Crediting incarcerated persons from all over the state to the predominately rural districts that contain large prisons enhances the weight of a vote in those districts, diluting all other votes in the state. Incarcerated persons are disproportionately Black or Latino, and outside of the Deep South, most prisons are built in disproportionately white areas. Using Black and Latino incarcerated persons to pad the populations of white legislative districts dilutes minority voting strength state-wide.

The Problem at the County and Municipal Level

Rural county and municipal districts are smaller than state legislative districts, so prison-based gerrymandering can create an even larger problem for people who live near but not immediately adjacent to a large prison. Some examples:

- **A true "rotten borough":** In Anamosa Iowa, a man won a city council seat with two write-in votes, neither of which he cast. There were no candidates because 96% of the district was incarcerated in a large prison. The handful of voters in the district had 25 times as much influence on the city council as residents elsewhere in the city.
- **"Majority-minority" in name only:** In Somerset County, MD, a county commission district that was deliberately drawn as a majority-minority district in order to settle a Voting Rights Act lawsuit has been unable to elect an African-American because a prison population, which cannot vote, was included in the population. The actual African-American resident population in the district is too small to elect an African-American candidate. It would have been possible to draw an effective majority-minority district had the prison population not skewed the data.

Solutions: What the Census Can Do

In a groundbreaking policy shift, the Census Bureau changed its 2010 data publication schedule to make it easier for states and localities to identify prison populations in its redistricting data. State and municipal governments can then choose to leave the incarcerated people counted where the prisons are, delete them from the redistricting formulas, or use their own data to assign them to some other locale.

Fortunately, the Census Bureau can achieve a full and permanent solution for the 2020 Census: revising its "usual residence" rule to count incarcerated persons as residents of the community where they resided prior to incarceration. As established by numerous court cases, and as demonstrated by the variety of policies which the Census Bureau has adopted in absence of specific legislation, the Census Bureau has broad discretion over how to determine where to count individuals in the decennial census.

States and Localities are Ready for Accurate Counts:

In 2010 alone, New York, Maryland and Delaware passed legislation to use state correctional data ensure that districts are drawn on data that counts incarcerated people at home.

The legislative or executive branches in several states (Virginia, Colorado, New Jersey, Mississippi) require or encourage local governments to modify the census and refuse to use prison populations as padding. More than 100 rural counties and municipalities around the country make these adjustments on their own.