



Prison Based Gerrymandering

This year, 2.3 million people will be counted in the wrong place.¹ In 2001, the U.S. Census Bureau will count prisoners in this country as residents of prisons, not of the communities in which they are from, and in which they are most likely to return. While all 50 states use Census data for redistricting—nearly all, including Illinois, reject prison as a legal residence. Illinois law is clear that prison is not a legal residence. And while prisoners cannot vote in Illinois, if they could, they would be required to vote as legal residents of their previous home address.²

In 1887, the judgment in County of Franklin v. County of Henry (Ill.App. 2 Dist. 1887) declared that "a person confined in prison under the judgment and sentence of a court does not thereby change his residence."³ Incarceration, which is by definition involuntary, is not a residence.⁴

Prison-based gerrymandering is the practice of apportioning the political representation of prison populations from their home districts to prison districts. A lack of political will to address this problem over the last decade has ensured that prison-based gerrymandering will continue to be the status quo. As a result, despite being confined and easily counted, the vast majority of this country's growing and predominantly Black prison population will be miscounted—and misrepresented. Ultimately, prison-based gerrymandering violates the Voting Rights Act which mandates the creation of compact, contiguous and equally sized districts that protect minority communities and communities of interest. In other words, prison-based gerrymandering is unconstitutional and illegal—it dilutes the voting power for urban communities of color, and violates the right to equal representation for all Illinoisans.

For Illinois, this will have grave consequences. Because prisons in this state are located in communities geographically, racially and politically distant from those of prisoners—prison-based gerrymandering produces particularly stark results. While 65 percent of prisoners are from Cook County, 90 percent are incarcerated downstate. And while Blacks make up only 15 of the state population, they comprise 60 percent of Illinois' prison population. Giving the political representation of tens of thousands of Black prisoners—who can't vote—to downstate communities enhances the power of predominantly white, politically conservative areas. It simultaneously distorts district sizes, dilutes voting power for urban communities of color, and violates the right to equal representation for all Illinoisans.

There are 32,000 people of color incarcerated in Illinois. The U.S. Census, which is used for redistricting, counts prisoners as residents of the predominantly white communities where most

¹ Wagner, Kajstura, et al. "Fixing prison-based gerrymandering after the 2010 Census." Prisoner of the Census. March 2010.

² Blank and Wagner. "Importing Constituents: Prisoners and Political Clout in Illinois." Prisoner of the Census. February 1, 2010.

³ Blank and Wagner. "Importing Constituents: Prisoners and Political Clout in Illinois." Prisoner of the Census. February 1, 2010.

⁴ Blank and Wagner. "Importing Constituents: Prisoners and Political Clout in Illinois." Prisoner of the Census. February 1, 2010.

prisons are located, not the communities of color where prisoners are from and to which they are most likely to return. This practice transfers political power and representation away from communities of color and reapportions political power to prison communities, where prisoners cannot vote, violating the principle of one person, one vote and the right to equal representation. HB 94 would create the Prisoner Census Adjustment Act, requiring state and local governments to use census figures adjusted to reflect the pre-incarceration addresses of Illinois' state and federal prisoners in creating election districts and redistricting.

In Illinois, however, counting incarcerated people as residents of downstate prisons towns deeply affects democracy at the state and local level. Looking at the results of Illinois' 2001 redistricting process, based on 2000 Census figures, illustrates how miscounting and misrepresenting tens of thousands of the state's prisoners affects the distribution of power and political representation, and violates the most fundamental Constitutional and legal redistricting obligations for all Illinoisans.

In 2001, Illinois was to create 118 House districts with 105,248 people in each. According to the U.S. Census Bureau's data, each district is that size. But if prisoners—who are not legal residents of these districts—are removed from these population figures, it becomes clear that the actual sizes of Illinois House districts vary dramatically in size. These differences in district sizes produce a weighted voting system, unevenly and unfairly distributing power across the state.

Thirty-three Illinois House Districts created in Illinois' 2001 redistricting process did not meet constitutional population requirements.⁵ Eleven of these House districts had at least 2 percent of their district's population behind bars.⁶ The number of legal residents in some Illinois House districts were as low as 101,672—over 3,500 residents less than their mandated size.⁷

The most vivid example is Illinois' 91st House District. On record, this district has its 105,248 required residents. In reality, 3.1 percent—or 3,576—of them are prisoners.⁸ As a result, every 97 voters of this district have the same power as 100 in a district without prisoners.⁹ The 101,672 legal residents of this district—rural, white voters who economically benefit from prisons—also benefit from the relative power they have over voters in every other district across the state. The elected officials of this district also benefit because they have a smaller number of constituents than those of other districts.

Illinois House Districts Gaining State Political Representation from Prisoners

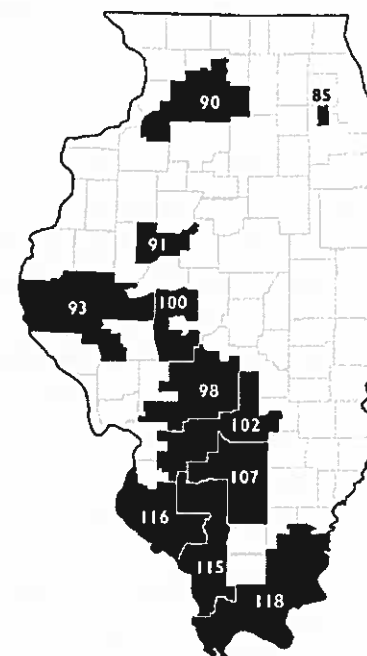


Figure 2: Blank and Wagner. "Importing Constituents: Prisoners and Political Clout in Illinois." Prisoner of the Census. February 1, 2010.

⁵ Prison Policy Initiative. "Incarcerated Populations In Illinois House Districts." 2010.

⁶ Prison Policy Initiative. "Prison-based Gerrymandering in Illinois." 2010.

⁷ Prison Policy Initiative. "Incarcerated Populations In Illinois House Districts." 2010.

⁸ Blank and Wagner. "Importing Constituents: Prisoners and Political Clout in Illinois." Prisoner of the Census. February 1, 2010.

⁹ Blank and Wagner. "Importing Constituents: Prisoners and Political Clout in Illinois." Prisoner of the Census. February 1, 2010.



The United Congress of Community and Religious Organizations Grassroots Human Rights and Racial Equity Policy Priorities

Redistricting Prisoners: HB 94 (Ford)

There are 32,000 people of color incarcerated in Illinois. The U.S. Census, which is used for redistricting, counts prisoners as residents of the predominantly white communities where most prisons are located, not the communities of color where prisoners are from and to which they are most likely to return. This practice transfers political power and representation away from communities of color and reapportions political power to prison communities, where prisoners cannot vote, violating the principle of one person, one vote and the right to equal representation. HB 94 would create the Prisoner Census Adjustment Act, requiring state and local governments to use census figures adjusted to reflect the pre-incarceration addresses of Illinois' state and federal prisoners in creating election districts and redistricting.

Talking Points:

- The U.S. Census counts Illinois' over 45,500 prisoners in the districts where prisons are located, not in the districts where they are from and are most likely to return. Using this data for redistricting at the all levels—form congressional to municipal—distorts political representation and power across the state.
- People of color make up over one-third of the state's population, yet over three-fourths of the state's prison population—sixty percent of whom are from Chicago.
- Over 95 percent of the state's prisoners are counted by the U.S. Censes as "residents" of predominantly white, downstate House districts where most of the state's prisons are located. Illinois prisons built since 1941 are located an average of 200 miles away from Chicago.
- This practice takes political power away from districts where prisoners are from while giving more power to the districts where prisons are located. The residents and representatives of all districts that do not have prisons lose, regardless of whether prisoners are from there, distorting democracy for all Illinoisans.

For Chicago/Cook County Legislators:

- In 2000, Cook County suffered a net loss of 26,304 people because of the Census miscount of prisoners.

What would HB 94 do?

- HB 94 would require state and local governments to count incarcerated people as part of the communities they come from, ensuring equal representation for all Illinoisans.

Who would HB 94 benefit?

- Residents of urban communities of color will get the representation they deserve in the state legislature.
- Residents in rural towns that do not have prisons will benefit because the adjacent districts with prisons will no longer have enhanced representation in county government.
- Residents in state districts without prisons will benefit in the state legislature because the people who live in prison districts will no longer have enhanced representation.
- County legislators in counties with prisons will benefit, because the bill will remove the controversy about whether counties should continue to adjust the Census on their own; and the state will assume the difficult technical task of making the adjustments that 10 counties do individually.

While this distorts representation at the state level, its impacts are even more extreme at the local level. Lawrence County provides a striking example. Lawrence County looks like it's on the upswing with a 9% population growth rate, three times higher than the growth rate for the entire state. It looks like it's becoming a more attractive place to live for African-Americans with a 1,243% increase in African-Americans since 2000. The real explanation is that the Lawrence Correctional Center opened after the last census, holding 2,358 prisoners, over 1,400 of which were African-American. Those prisoners were counted in Lawrence County in the 2010 census, and will be counted there in the current redistricting process, diluting the voting strength of voters everywhere in the state.

Prison-based gerrymandering will dramatically impact Lawrence County's redistricting. Those counted in the county, including prisoners, will be divided into 7 board districts of 2,407 people each. The district near the prison will only contain 49 people who can actually vote. The people who live next to Lawrence Correctional Center will have almost fifty times the voting power over the county board as other residents. People who live immediately adjacent to prisons shouldn't have more influence in local government than those who happen to live in the same community but a little further away from the prison.

Solutions exist. Illinois should pass HB 94 to correct where prisoners are counted for the purpose of redistricting. (link:

<http://www.ilga.gov/legislation/BillStatus.asp?DocNum=94&GAID=11&DocTypeID=HB&LegId=54567&SessionID=84&GA=97>). By passing this legislation, Illinois can join other states that have passed bills to end prison-based gerrymandering and ensure fair representation for all of its residents. In the past year, Maryland (http://www.prisonersofthecensus.org/news/2010/04/13/maryland_law/), Delaware (http://www.prisonersofthecensus.org/news/2010/07/07/delaware_law/), and New York (http://www.prisonersofthecensus.org/news/2010/08/03/ny_law/) have all passed bills outlawing prison-based gerrymandering; similar bills are under consideration in Arkansas (link: <http://www.arkleg.state.ar.us/assembly/2011/2011R/Pages/BillInformation.aspx?measureno=HB2102>), Georgia (<http://www.legis.ga.gov/Legislation/en-US/display.aspx?Legislation=32371>), Indiana, and Oregon (link: <http://gov.oregonlive.com/bill/2011/SB720/>) as well.

Thank You,

The United Congress of Community and Religious Organizations

Further Explanation:

By law, all legislative districts are the same size and each district elects one representative. So, if there are fewer people who vote in a district, they have more power and influence than districts with more people who can vote. For example, if "District 1" has 1000 people, and all 1,000 people can vote, then each person's vote is worth 1/1000th of the total vote. If "District 2" has 1,000 people, and there are 500 are prisoners who cannot vote and 500 people who can vote, then each person's vote is worth 1/500th of the total vote. The votes of people in "District 2", which has prisoners, are twice as powerful as those in "District 1" that has no prisoners.

Countering Opposition Arguments:

Their Argument: There are not a lot of prisoners from my district, so my district doesn't lose anything from this system. I don't support this bill.

Our Argument: Even though you don't have prisoners from your district, and you don't think your district loses anything, it does. Because districts with prisons gain more power, relative to them, your district does lose power. You should support this bill.

Their Argument: I don't believe prisoners should be able to vote. I don't support this bill.

Our Argument: This bill is not about whether prisoners should be able to vote or not—it would not enable prisoners to vote. This bill is about redistricting and ensuring that all those who can vote have equal representation. This bill does not benefit prisoners. It ensures fair representation to their families, their neighbors, as well as their victims.

Their Argument: I think the current system is fair.

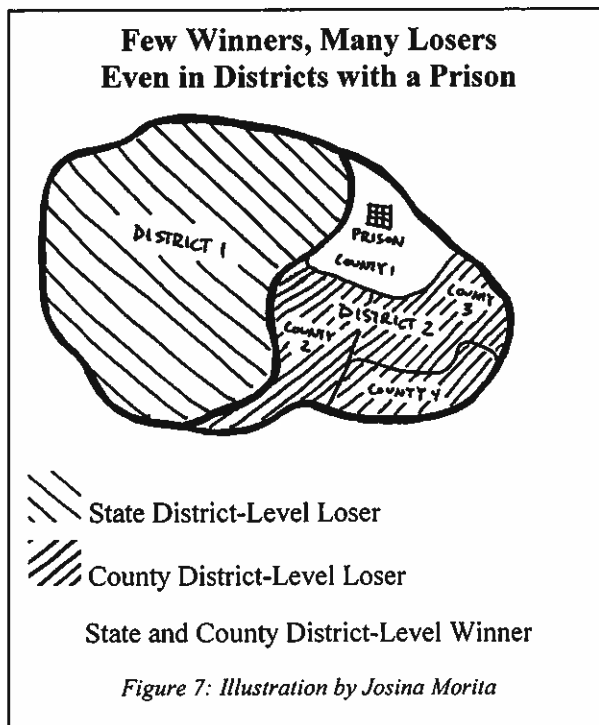
Our Argument: The system is not fair. Some legislators should not have fewer voting constituents than others based on where prisons are located. And the votes of people who live in districts without prisons should not be worth less than those who live in districts with prisons. This violates the principle of "One Person, One Vote" and the right to equal representation.

Their Argument: I don't care if some of my colleagues have less constituents or a little more power than I do.

Our Argument: This issue is not about you—it's not about legislators. This issue is about your constituents, and all Illinoisans who deserve the right to a fair and representative democracy. This violates the principle of "One Person, One Vote" and the right to equal representation.

Their Argument: I don't want to give more representation to Chicago.

Our Argument: This issue is about fairly drawing districts for all Illinois citizens at all levels of government. The issue is not about giving Chicago, or other districts with no prisons more power. This bill would ensure that everyone has equal power and representation—that's fairness.



For more information or if you have any questions, call Josina Morita, 773-844-7296

