

PRISON GERRYMANDERING IN CONNECTICUT

The problem

The U.S. Census Bureau counts incarcerated people as residents of the communities where prisons are based, as opposed to their homes of record. Even though Connecticut law declares that incarceration does not change a person's residence, the state uses Census figures for redistricting purposes. This longstanding flaw in the Census undermines the state's constitutional duty to draw state legislative districts on the basis of equal population. After the 2011 redistricting, for example, 9 Connecticut state house districts met federal minimum population requirements only by counting prison populations as if they resided at the location of the correctional facilities.

The unfortunate result of prison populations padding the legislative districts that contain prisons is to enhance the weight of votes cast in those districts while diluting every vote cast in a district that does not include a prison. Using these counts to draw state legislative districts gives people who live near prisons extra clout and distorts democracy:

- Although almost every town in Connecticut had residents incarcerated elsewhere on Census Day, the majority of the state's prison cells are in 5 small towns: Cheshire, East Lyme, Enfield, Somers, and Suffield.
- The majority-white residents of 7 State House districts got significantly more representation in the legislature because each of their districts included at least 1,000 incarcerated African Americans and Latinos from other parts of the state.
- For example, State House District 59, (Enfield) claimed more than 3,300 African Americans and Latinos as constituents. But 72% of the African Americans and 60% of Latinos were not actually residents of the district, but rather were temporarily incarcerated in the Enfield, Willard, and Robinson Correctional Institutions.
- The dilution of African-American and Latino political power was not limited to the 59th district: 86% of the state's prison cells are located in disproportionately white house districts.

The solution

A law to end prison gerrymandering (similar to HB 6606 in 2011) would set up a system for collecting the homes of record of incarcerated persons, and would ensure that districts are drawn based on where people legally reside instead of where correctional facilities are located.

Prison gerrymandering ignores Connecticut law

Treating incarcerated people as residents of a correctional facility ignores the state's definition of residence, which explicitly states that:

"No person shall be deemed to have lost his residence in any town by reason of his absence therefrom in any institution maintained by the state." (General Statutes of Connecticut § 9-14.)

Similar legislation has already been passed in New York, Maryland, Delaware, and California. The New York and Maryland laws have been implemented and upheld by the courts, and the Maryland law was upheld by the U.S. Supreme Court. Ideally, the U.S. Census Bureau would change its policy and count incarcerated people as residents of their home of record, but Connecticut can take steps now to ensure that districts are drawn more fairly in 2021.

The benefits of ending prison gerrymandering

- Every resident in the state would have the same access to the legislature regardless of whether she lived in a district that contained a prison.
- The state would be in compliance with the U.S. Supreme Court's "one person, one vote" rule, which requires that all residents be given the same access to government regardless of where they live.
- The state would be ensuring that its redistricting data matched that of the towns of Enfield and Cheshire, which both currently refuse to use the prison populations when drawing their local town districts.
- There would be no effect on the distribution of federal or state funds because all funding programs have their own data sources and none rely on redistricting data.

Prison gerrymandering is unpopular

In 2012, both the *Hartford Courant* and *The Norwich Bulletin* called for Connecticut to pass legislation that would count incarcerated people as residents of their home addresses for redistricting purposes.

A Quinnipiac University poll reveals that most New York State voters say that incarcerated people should be counted as residents of their home districts, not of where they're imprisoned. Supported by public opinion, the New York legislature passed a law in 2010 to end prison gerrymandering. The law has been successfully implemented and the state counted incarcerated people at home during the 2011 redistricting process.

NAACP Sues Connecticut Over 'Prison Gerrymandering'

Matthew Kaufman | Hartford Courant | June 28, 2018

Residents of the prison-gerrymandered districts thus have more influence over local affairs and greater voting power than residents in other districts – NAACP lawsuit over alleged "prison gerrymandering."

The [NAACP](#) sued Connecticut in federal court Thursday, alleging the state's practice of counting inmates in the legislative districts where their prisons are located amounts to "prison gerrymandering" that dilutes the political power of minority communities and violates the principle of one person, one vote.

Connecticut's legislative districts for the House and Senate are redrawn every 10 years to equalize the population of each district. The lawsuit alleges that counting inmates as living in the facility where they are imprisoned – rather than their residential address before they were sent away – gives the regions where prisons are located a political boost. Those areas, the suit states, are mostly rural and white. (Kyle: As noted in the 2014 piece, the way in which prisoners are counted is due to a flaw in the U.S. Census which contradicts Connecticut law.)

The suit says legislators do not meaningfully represent the inmates who live within their districts. And with Connecticut's prison population disproportionately black and Latino, according to the suit, the inmates' home districts suffer politically when prisoners are counted as residing elsewhere.

"We believe this practice violates the one person, one vote [principle] of the equal protection clause of the 14th Amendment to the United States Constitution," Brad Berry, general counsel for the NAACP, said Thursday. "We simply cannot accept that the state of Connecticut shifts inmates to rural areas far from their homes, then uses the fiction of their supposed residence in those areas to dilute the electoral power of their home communities."

Inmates convicted of felonies lose their right to vote and are counted as residents of the district where they are imprisoned. (Kyle: The voting rights of prisoners is another debate and social justice issue in and of itself → [Felony Disenfranchisement](#)) But those inmates who remain eligible to cast ballots are treated as living at their pre-incarceration residence.

The suit, seen as a model that may be extended to other states, asserts that in as many as nine of the state's 151 House districts, the number of non-incarcerated residents is at least 10 percent less than the number of constituents in the largest House district. For example, the suit states that for every 85 non-incarcerated residents living in District 59, which includes Robinson, (in Enfield) and Willard-Cybulski (in Somers) Correctional Institutes, there would be 100 residents living in New Haven's District 97, if incarcerated residents from the district were counted as living there. (Kyle: This is a cumbersome way of saying "Residents in Enfield and Somers have 15-20% more voting power than residents in other state House districts.")

"Permanent residents of the prison-gerrymandered districts thus have more influence over local affairs and greater voting power than residents in other districts, particularly in the urban districts that many prisoners call home," the suit alleges.

“Because their individual votes count for less, individual plaintiffs, NAACP members and their fellow residents must invest greater energy to elect representatives of their choice,” the suit alleges. “Plaintiffs in District 97 have over 15 percent more doors to knock on, voters to call and mailings to send if they wish to have an equal influence over the political process as residents of District 59. Because of this increased need for resources, their campaign donations go less far.”

The suit seeks a ruling that Connecticut’s redistricting plan is unconstitutional as well as an injunction barring the use of the current legislative maps for the 2020 elections.

The NAACP, working with the Rule of Law Clinic at Yale, brought the suit on behalf of several registered voters living in districts whose political power they say is diluted by the redistricting plan, including one former inmate. Gov. Dannel P. Malloy and Secretary of the State Denise Merrill are named as defendants.

The suit states that no law mandates that prisoners be counted in the district where they are incarcerated and notes that there were legislative proposals to abolish that policy in 2011, 2013, 2015 and 2016. But no legislation was adopted.

(Added by Kyle)

This current lawsuit in Connecticut is the first time a state has been sued for the existing method of counting prisoners and how this impacts districts and voting power.

Currently 9 states have passed laws which ended prison gerrymandering in their state: California, Colorado, Delaware, Maryland, Massachusetts, Michigan, New York, Tennessee, and Virginia. Many other states, including Connecticut, have introduced similar bills that have not yet been passed into law.

Questions: (separate your submission by question)

- 1) Using your own words to best summarize the issue, what is prison gerrymandering?
- 2) Why is prison gerrymandering currently an issue in Connecticut? (What is the basis for the current lawsuit?)
- 3) What similarities and differences exist between “prison gerrymandering” and “gerrymandering” (in general)?
- 4) With some background from the readings, do you think prison gerrymandering is a serious problem? Do you think laws should be passed to end this practice in Connecticut / elsewhere?
- 5) What is the most interesting or surprising thing you learned from the articles (if anything)? In addition, ask a question you have about prison gerrymandering.