PRISON
POLICY INITIATIVE

PRISON GERRYMANDERING IN MICHIGAN

Problems:

When legislators rely on the Census Bureau's prison counts to draw legislative districts, they unintentionally give extra representation to the districts that contain prisons and dilute the votes of everyone else. It's called "prison gerrymandering." It plays out in Michigan on two levels:

• Michigan engages in prison gerrymandering for state legislative districts.

• Michigan law already requires that state prison populations be excluded in city[1] and county[2] redistricting, but the law does not prevent federal facilities from causing vote dilution.

Prison gerrymandering violates the constitutional principle of "one person, one vote." The Supreme Court requires districts to be based on equal population in order to give each resident the same access to government. But a longstanding flaw in the Census counts incarcerated people as residents of the prison location, even though they cannot vote and are not a part of the surrounding community.

Michigan law considers incarcerated people to be residents of their home addresses: "An elector shall not be deemed to have gained or lost a residence … while confined in a jail or prison." (Michigan Compiled Laws §168.11(2).) Using the Census Bureau's prison count data for redistricting purposes is inconsistent with Michigan's residence law.

Impact at the state level:

• During the 2001 redistricting,[3] four state senate districts (17, 19, 33 and 37) met federal minimum population requirements only because they were padded with prison populations. Senate districts were supposed to contain about 261,528 residents, but the 17th and 33rd districts each contained more than 7,000 people in prison.

• Five house districts (65, 70, 92, 107 and 110) met federal minimum population requirements only because they were padded with prison populations.

Crediting all of Michigan's incarcerated people to a few locations enhances the political clout of the people who live near prisons, while diluting voting power of all other Michiganders.

Impact at the county and municipal level:

Although state law requires state prison populations to be excluded from local redistricting — and to our knowledge all counties and municipalities comply with the law — the law does not apply to federal facilities:

• When the Washtenaw County Board of Commissioners redistricted in 2011, the 1,311 people incarcerated at the Milan Federal Correctional Institution were counted in the County's District 3. This means that 3.4% of the district's population is actually made up of people in the federal prison who do not reside in the county.

Past activity:

• In June 2007, Representatives Lemmons, Young and Gonzales introduced HB No 4935, "A bill to require state and local governmental bodies to use census figures adjusted to reflect preincarceration addresses of persons imprisoned in this state."

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1 Michigan Compiled Laws §117.27a(5).

2 Michigan Compiled Laws §46.404(g).

3 We have not had time to update this analysis for the 2011 redistricting.

Strategy choices:

- Pass a bill that would count incarcerated people at home for state legislative, county and municipal redistricting purposes. (A model bill is available on our website at http://www.prisonersofthecensus.org/models/example.html.)
- Pass legislation to clarify the definition of population used in county and municipal redistricting purposes so that federal prisons cannot cause prison gerrymandering problems.

For more information, start with:

- Our 50 State report page for Michigan provides additional resources: http://www.prisonersofthecensus.org/50states/MI.html
- "Counting Convicts: Do it Here or There?", editorial published in the *Jackson City Patriot*, February 9, 2006. Available at http://www.prisonersofthecensus.org/news/2006/02/23/rural-michigan/ (The editorial board analyses the demographics of a rural town to critique how the Census Bureau counts prison populations.)