

PRISON GERRYMANDERING IN KANKAKEE COUNTY, IL

The Supreme Court requires local governments to update their legislative districts once per decade so that each district contains the same population, giving each resident equal representation. For most local governments this redistricting process relies on U.S. Census data and is straight forward. For communities that host large prisons, however, the process can be more complex because the U.S. Census Bureau counts incarcerated people where they are confined even though Illinois law says that a prison is not a residence.

Problem

The Census Bureau counts people incarcerated at a correctional facility as residents of the prison, so when Kankakee County uses Census data to draw its legislative districts, the County Board district with the prison in it will have fewer actual Kankakee County residents than the other districts. This means that the county is — albeit unintentionally — giving people who live near the prison more representation on the County Board. This violates principles of equal representation.

- After the 2010 Census, the Kankakee County Board counted 429 people incarcerated at the Jerome Combs Detention Center as if they were residents of District 10.
- People incarcerated at the Jerome Combs Detention Center account for 11% of the population of District 10. That effectively gives each group of 89 actual residents in District 10 as much political clout as 100 people in the other districts.

Prison gerrymandering contradicts Illinois law

Drawing districts that count incarcerated people as prison residents ignores Illinois law; the Illinois Appellate Court held that “a person confined in prison under the judgment and sentence of a court does not thereby change his residence.” (County of Franklin v. County of Henry County, 26 Ill.App. 193 (Ill.App. 2 Dist. 1887).)

State or federal prisoners that happen to be incarcerated in a prison located in Kankakee County should not be counted as residents of Kankakee County when the county draws districts for the County Board.

Solutions

Kankakee County should adjust the data it uses for redistricting to remove the prison population so the data reflects the actual residents of the county.

After the last Census, most Illinois counties and cities with large prisons adjusted the Census and avoided prison gerrymandering, including the counties of Bond, Christian, Crawford, Fayette, Fulton, Jefferson, Lawrence, Lee, Livingston, Montgomery, Rock Island, Will and the cities of Canton, Chester, Crest Hill, Danville, East Moline, Galesburg, Jacksonville, Pontiac, Robinson, and St. Charles. (Nationwide, the Prison Policy Initiative has found more than 200 county and municipal governments who avoided prison gerrymandering after the last Census.)

Adjusting the census to avoid prison gerrymandering has been explicitly upheld by the Illinois Appellate Court. After the 1990 Census, the Appellate Court upheld the Knox County Board's decision to exclude prisoners after the 1990 Census, noting that:

"[h]ad the Board adopted the plaintiffs' position and automatically included an extra 1,248 ineligible voters in a single district, there would have been substantially fewer eligible voters in that district when compared to the other four districts. Thus, the eligible voters in that district would have possessed a disproportionate share of voting power. Accordingly, the Board excluded the non-voting inmates when constructing the districts." *Knox County Democratic Central Committee v. Knox County Board*, 231 Ill.App. 3d 855 (1992); 597 N.E.2d 238 (1992)