

PRISON GERRYMANDERING IN KENTUCKY: COUNTIES & SCHOOL BOARDS

The problem

This practice of including prisons in local districting plans leads to serious distortions of political power in Kentucky county and school district governments.

The Supreme Court requires counties to update their magisterial districts once per decade, ensuring that each district contains the same population and each resident has equal representation in county government. The same requirement extends to school boards. But the Census Bureau counts incarcerated people where they are imprisoned, not where they legally live. When prisoners — who aren't allowed to vote and are legal residents of other counties — are included in districting population counts, the political clout of the real residents in districts with prisons is artificially inflated at the expense of the people residing in all other districts.

For example:

- In Clay County, District 2 is 40% prisoners from FCI Manchester and Clay County Detention Center. This means that every 3 residents in District 2 have as much political power as 5 residents in the other districts.
- Six other counties — Franklin, Fulton, Henderson, Lyon, Muhlenberg, and Shelby — and five county school districts — Elliot, Clay, Boyle, Muhlenberg, and Shelby — similarly used Census Bureau prison counts when drawing magisterial districts and thereby gave county residents who lived near correctional facilities extra clout in county government and school boards.

Kentucky law says a prison cell is not a residence:

“A voter shall not lose his or her residence by absence for temporary purposes merely; nor shall he or she obtain a residence by being in a county or precinct for such temporary purposes, without the intention of making that county or precinct his or her home.” —Kentucky Annotated Revised Statute §116.035 (2).

“[A] person’s domicile is not changed by his involuntary confinement in a penitentiary or other prison.” —*Ferguson v. Ferguson*, 255 Ky. 230, 73 S.W.2d 31 (Ky. App. 1934)

Oldham County has a solution

Oldham County is no stranger to grappling with the Census Bureau’s miscount, and after the 2010 Census it finally found a way to entirely avoid prison gerrymandering. After the 2000 Census, Oldham County was faced with drawing a district that would have been 60% incarcerated, so the county split the prison complex between two districts, each of which was 30% incarcerated.

In 2011, the county used the Census Bureau’s Advance Group Quarters Summary File and simply removed the prison population for its redistricting. All Oldham County residents — regardless of whether they live near the prison — now have the same access to the county Fiscal Court.

Other Kentucky counties — Casey, Elliot, Lee, Marion, Martin, McCreary, Morgan — and county school boards — Grayson, Lyon, Marion, Martin, McCreary — took similar remedial measures to avoid prison gerrymandering after the 2010 Census.

