

PRISON

POLICY INITIATIVE

PRISON GERRYMANDERING IN MINNESOTA

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 Minnesota on two levels:

- Minnesota engages in prison gerrymandering for state legislative districts.
- Minnesota state law¹ is commonly interpreted² to require counties and municipalities to engage in prison gerrymandering.

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.

Minnesota law considers incarcerated people to be residents of their home addresses. The Minnesota Constitution states that, "no person loses residence... while confined in any public prison." (Article VII, § 2.) Using the Census Bureau's prison count data for redistricting purposes is inconsistent with Minnesota's residence law.

Impact at the state level:

- During the 2011 redistricting, four districts (11B in the Pine County area, 24B near the City of Faribault, 38A near the City of Lino Lakes and 39B in the Stillwater area) were drawn with at least 3% of their population from prisons located in the district. Each House district should have 39,582 residents, but some districts have far less. Of particular concern:
 - District 24B, which contains the Faribault state prison, has only 37,488 actual residents. That means that 5% of the district's claimed population is actually made up of people incarcerated at the Faribault prison.
 - 5% of District 39B is comprised of incarcerated populations. District 39B contains prisons in both Oak Park Heights and in Stillwater, which together account for 2,035 of the people in the district.

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

Impact at the county and municipal level:

Minnesota's counties and municipalities provide many dramatic examples of prison gerrymandering:

- 35% of Ward 3 in the city of Waseca is incarcerated in a federal prison. This gives every 65 residents of Ward 3 the same voting power as 100 residents of the other wards.
- 27% of Waseca County's District 5 is incarcerated.
- 21% of Pine County's District 5 is incarcerated.
- 16% of Rice County's District 3 is incarcerated.
- 16% of Carlton County's District 5 is incarcerated.

¹ Minn. Stat. Ann. §§ 375.025(1), 205.84(1)(a), and 645.44(8).

² Minn. Op. Atty. Gen., 798d, March 26, 1962 and Minn. Op. Atty. Gen. 1936, No. 112, p.115.

- We've also identified vote dilution caused by prison gerrymandering in 4 other Minnesota cities (Elk River, St. Cloud, Rochester and Hastings) and in 2 counties (Chisago and Sherburne counties).

Because state law is read to require prison gerrymandering, Minnesota, unlike its neighbors, has no examples of local governments that rejected the Census Bureau's prison counts when redistricting. And pure luck saved Minnesota from providing one of the most dramatic examples of prison gerrymandering in the nation. After the 2000 Census, 53% of a Swift County Commission District was made up not of residents of Swift County, but rather incarcerated people who were shipped in to a private prison from out-of-state. This gave the residents of the district with the prison more than twice the influence in local government of residents in other districts. The county did not engage in prison gerrymandering this decade because the prison closed before the 2010 Census was taken.

Past activity:

- In March 2010, Senator Higgins and Representative Champion introduced S.F. No. 3097/H.F. No 3536, a bill to end prison gerrymandering.
- The Second Chance Coalition, the Prison Policy Initiative and Dēmos submitted testimony to the Special Judicial Panel on Redistricting in September and October of 2011 urging the panel to draw the state legislative districts in ways that would minimize the vote dilutive harm of prison gerrymandering.

Strategy:

- Pass a bill that would count incarcerated people at home for state legislative, county and municipal redistricting purposes. (A bill has already been drafted for 2013.)

In-state contacts:

- Sarah Walker, Minnesota Second Chance Coalition
- Mark Haase, Council on Crime and Justice
- Laura Frederick Wang, League of Women Voters of Minnesota

For more information, start with:

- Our Minnesota campaign page is an actively maintained list of resources for the campaign to end prison gerrymandering in Minnesota. It includes fact sheets, news coverage, and testimony given during the 2010 redistricting cycle, and a district-by district report analyzing the redistricting after the 2000 Census: <http://www.prisonersofthecensus.org/mn/>
- Highlights of news coverage of prison gerrymandering in Minnesota:
 - "Prison-policy study shows how inmate counts yield redistricting clout", Casey Selix, *MinnPost*, March 9, 2010. (Discusses how prison populations distort local and state legislative districts.)
 - "Loss of prison population means big changes down the road for districts in Swift County, Minn.", Carolyn Lange, *West Central Tribune*, February 25, 2012. (Discusses how a prison closure led to a radical redraw of county districts, which used to be severely skewed by the incarcerated population.)