

Three trends in New York that require a changed Census

The Census counts New York prisoners as residents of the communities where they are incarcerated, despite a provision in the state constitution that says they should be counted at home. Because New York uses Census data to draw its legislative districts, representation throughout the state is skewed. Three trends in New York's prison policies – a growing incarceration rate, the racial disparity in the prison population, and the prisons' locations – mean that minority rights are disproportionately harmed.

1. Rates of Incarceration

New York State has experienced tremendous growth in both the size of its prison population and the percentage of citizens incarcerated since 1970. Thirty years ago, New York incarcerated 69 of every 100,000 citizens. By 2000, New York was incarcerating 377 of every 100,000 residents – more than five times as many.

It is important to distinguish a rise in incarceration from a rise in crime. Incarceration rates reflect political and institutional decisions about the length of sentences and the extent to which arrests and convictions should result in prison terms. As one researcher wrote:

A regression analysis of the rise in the number of inmates from 1980 to 1996 concluded that one half (51.4 percent) of the increase was explained by a greater likelihood of a prison sentence upon arrest, one third (36.6 percent) by an increase in time served in prison, and just one ninth (11.5 percent) by higher offense rates.

The rising incarceration rates mean New Yorkers are being disenfranchised in ever greater numbers, and racial disparities in incarceration mean that more of the disenfranchised are people of color.

2. Racial Disparities in Incarceration

The New York State Department of Correctional Services reports that 82% of the prison population is Black or Latino. Of the 58,887-person increase in incarceration from 1970 to 2000, 85% were Black and Latino. This is due in part to the "War on Drugs" and its disproportionate focus on minorities.

The number of Whites imprisoned for drug law violations in New York increased 86% from 1980 to 2000. For Blacks, the number increased 1,197%, and for Latinos 1,167%. In 2000, New York imprisoned Blacks for drug law violations at a rate 34.5 times higher than Whites. The Latino rate was 25.7 times higher than Whites. As a result, in a state that is 62% White, Blacks and Latinos account for 93% of prison sentences for drug offenses.

3. Geographical Disparities in Prison Construction

Prisons are increasingly located far from prisoners' homes. Only 10% of prisoners are from rural counties in upstate New York, but 75% of the state's prisoners are housed there, and all 43 prisons built since 1976 are upstate. These upstate prison counties are predominantly White, even when the non-voting prison populations are included. The geographical disparities in prison construction translate into clear racial disparities: 98% of New York prison cells are located in Senate districts whose population is disproportionately White. When it counts prisoners as residents of prison towns, then, the Census effectively transfers disenfranchised minority populations to predominantly white legislative districts.

Prisoners of the Census

Because of these trends, the Census' prisoner miscount has a profound and disturbing impact on fair representation for minorities. Districts with prisons have smaller populations and significantly greater voting power than the prisoners' home communities. Significant harm is done to Black and Latino citizens' abilities to affect state affairs and ensure that their communities' needs are met. There are no compelling reasons to use inaccurate, unconstitutional data to perform legislative redistricting with discriminatory consequences.

This factsheet is adapted from a brief filed by the National Voting Rights Institute and Prison Policy Initiative to the U.S. Court of Appeals for the Second Circuit in the case of Muntaqim v. Coombe. <http://www.prisonpolicy.org/reports/muntaqim.html>