

PRISON GERRYMANDERING IN NEW MEXICO

The Supreme Court requires state- and local governments to update their electoral districts once per decade to ensure that each district contains the same population, which gives each resident equal representation in government. However, the U.S. Census Bureau counts people where they are incarcerated, not where they are from, so when jurisdictions rely on raw Census data which does not reflect their real populations, democracy suffers.

The problem in New Mexico

- At the state level, at least 9 state House districts are approximately 2% incarcerated or more, and in 3 of those districts, the incarcerated population accounts for about 4% of the district.
- In the City of Hobbs, 19% of people in City Commission District 5, were incarcerated at the Lea County Correctional Facility. This means that every 81 residents in District 5 have as much political power as 100 residents in the other city districts.
- In the City of Grants, the population counted at the New Mexico Women’s Correctional Facility accounts for about 25% of a City Council district.
- In Cibola County, 22% of people in County Commission District 4, were incarcerated at the Cibola County Correctional Facility. This means that every 78 residents in District 4 have as much political power as 100 residents in the other Cibola County districts. Similarly, New Mexico Women’s Correctional Facility accounts for 11% of District 2’s population.

New Mexico law says a prison cell is not a residence.

“[A] person does not gain or lose residence solely by reason of his presence or absence . . . while confined in a public prison.”

New Mexico Statutes §1-1-7(D).

What other states and local governments do

Ten states and more than 200 county and municipal governments now adjust Census data to account for prison populations prior to redistricting in order to create more equitable and accurate districts.

The solution for New Mexico

- States that are not able to implement legislation prior to the current redistricting cycle can still minimize the impact of prison gerrymandering by using correctional population data from the Census to avoid concentrating prison populations within a single district.
- Local governments—towns, cities, counties, and school districts—should exclude correctional facilities when local district lines are drawn. This approach will ensure that districts have equal numbers of actual residents and, therefore, that residents have truly equal representation.

SHORT-TERM SOLUTIONS

Submit Public Comments or Testify at Committee Hearings

This year, for the first time, a Citizens Committee will be tasked with redistricting. This opens a new opportunity for advocates to influence the mapmaking process. Advocates may submit public comments and/or participate in one of the dozen public hearings that the Committee must hold.

If the Committee refuses to count incarcerated people at home, the second-best pitch is to urge it to [avoid concentrating prison populations within a small number of districts](#). While this solution does not solve the issue, it mitigates the damage of overrepresentation of districts that house more than one facility.

LONG-TERM SOLUTIONS

Support Legislation to End Prison Gerrymandering

No bill to end prison gerrymandering has been proposed in New Mexico. Advocacy groups may consider working with legislators to draft and propose a bill to end the practice. See model legislation [here](#).

Learn more about how successful campaigns to end prison gerrymandering were launched in California, Colorado, Delaware, Illinois, Maryland, Nevada, New Jersey, New York, Virginia, Washington [here](#). In Illinois, prison gerrymandering was banned via an [omnibus criminal justice reform bill](#).

Support Legislation to Collect Detainees' Pre-Incarceration Addresses

The New Mexico Department of Corrections does not appear to aggregate data on where incarcerated people are from, and no bill has been proposed to require it to do so. Advocacy groups may push for legislation to establish an organized, reliable record-keeping system. In California, for example, prisons must keep records of the “residential address or addresses at which the inmate was domiciled before the inmate’s most current term of incarceration.” Cal. Elec. Code § 21003 (West).

Leverage Social Media

Post about prison gerrymandering on social media, including your representative’s handle, as applicable.

[@Representative’s Twitter handle] Prison gerrymandering distorts democracy by counting incarcerated people as non-voting constituents. Please support legislation to end this practice in NM to ensure that all votes are counted fairly.

Litigation

Litigation provides a potential route forward to end prison gerrymandering. Federal case-law is [mixed](#) and only [one suit](#) (dismissed without reaching the merits) has been brought at the state level to challenge the practice. Please contact Sam Osaki (sosaki@aclu.org) if you are interested in learning more.

Federal-level Advocacy

H.R. 1 would require the Census Bureau to change how it counts incarcerated people, thus ending prison gerrymandering across the nation. Advocates may consider pressuring Congress to pass this bill. **But note:** even if H.R. 1 passes, it will not fix the problem until the 2030 Census, and [other considerations](#) may factor in to advocates’ decision on whether to support the bill.