

## PRISON GERRYMANDERING IN NEW MEXICO

Incarcerated people do not vote or benefit from the funding that their presence in the district provides. Prison gerrymandering creates unequal representation, violates the concept of one person, one vote, and allows for electoral maps to be drawn that underrepresent communities of color and historically marginalized populations.

### The Problem:

- Mass incarceration and racial disparities in incarceration have made this problem worse by counting individuals who are disproportionately members of urban communities of color in rural and suburban districts that are not reflective of their communities.
- Hispanic and Native American voters have long faced legal, institutional and cultural barriers to the process, and the state has repeatedly been sued for violating minority voting rights.
- Nationwide, Hispanics and African Americans are 3 to 7 times more likely to be in prison, diluting the voting strength of minority voters.
- Prison-based gerrymandering hurts everyone who doesn't live next to a large prison, but the communities that experience high rates of incarceration pay the highest price of all.<sup>1</sup>
- Basing legislative districts on actual population would give all communities the same voice in government regardless of whether or not they contain a large prison.

### Effects on New Mexico:

- In 1991, New Mexico was required to submit all redistricting plans to the federal Department of Justice. Despite that oversight, the DOJ still flagged evidence of potential “cracking” of Hispanic communities in Southern New Mexico and forced the state to redraw several districts.
- After the 2000 redistricting cycle, 21% of residents of District 5 were people incarcerated at the Lea County Correctional Facility, in Hobbs.<sup>2</sup>

---

<sup>1</sup> Initiative, P. P. (n.d.). The Problem. Retrieved from <https://www.prisonersofthecensus.org/impact.html>

<sup>2</sup> Initiative, P. P. (n.d.). The Problem. Retrieved from <https://www.prisonersofthecensus.org/impact.html>

- Although there are facilities in Santa Fe and Las Cruces, many of the New Mexico's correctional facilities sit in less populated parts of the state, near Springer, Clayton, Chaparral, and Grants, or several miles outside small cities in Santa Rosa, Hobbs, and Roswell. Considering that most inmates aren't allowed to vote, it's unlikely that many elected officials consider inmates important constituents.<sup>3</sup>
- In the city of Hobbs, 21% of people in District 5, drawn after the 2000 Census, were incarcerated at the Lea County Correctional Facility.<sup>4</sup>
- Without the private prison population, District 62 (in Lea County), would have the smallest Native American population of any district.<sup>5</sup>
- Aztec City rejected the Census Bureau's prison miscount, and drew districts based on actual resident populations after the 2000 Census. If not, it would have made 35% of the district containing inmates.<sup>6</sup>
- New prisons constructed in Cibola and Union counties over the last two decades will require county officials to decide for the first time if they intend to use the Census Bureau's prison counts to give extra influence to the residents who live near the prisons, or if all residents should be given the same access to local government.
- Two districts, District 8 and 62 (Lea County), drawn after the 2000 Census include more than 1,000 incarcerated people as constituents, giving the actual residents of these districts about 4% more influence than each of the districts without large prisons.<sup>7</sup>

### Effects on Tribal Populations in New Mexico

- Native Americans in New Mexico are incarcerated at almost twice the rate of non-Hispanic whites in the state. Six out of every 1,000 Native Americans in New Mexico are incarcerated compared to only 3 out of every 1,000 non-Hispanic whites in the state.<sup>8</sup>
- The legislative districts most advantaged by prison-based gerrymandering have few Native American residents.

---

<sup>3</sup> Doland, G. (2019). Redistricting NM 2021: A Troubled History and Opportunities for Change. Retrieved from [http://nmindepth.com/wp-content/uploads/2020/01/GD\\_NM-Redistricting-Paper-Final-02-1](http://nmindepth.com/wp-content/uploads/2020/01/GD_NM-Redistricting-Paper-Final-02-1).

<sup>4</sup> Initiative, P. P. (n.d.). New Mexico 2010 Census Guide. Retrieved from <https://www.prisonersofthecensus.org/50states/NM.html>

<sup>5</sup> Initiative, P. P. (n.d.). New Mexico 2010 Census Guide. Retrieved from <https://www.prisonersofthecensus.org/50states/NM.html>

<sup>6</sup> Doland, G. (2019). Redistricting NM 2021: A Troubled History and Opportunities for Change. Retrieved from [http://nmindepth.com/wp-content/uploads/2020/01/GD\\_NM-Redistricting-Paper-Final-02-1](http://nmindepth.com/wp-content/uploads/2020/01/GD_NM-Redistricting-Paper-Final-02-1).

<sup>7</sup> Doland, G. (2019). Redistricting NM 2021: A Troubled History and Opportunities for Change. Retrieved from [http://nmindepth.com/wp-content/uploads/2020/01/GD\\_NM-Redistricting-Paper-Final-02-1](http://nmindepth.com/wp-content/uploads/2020/01/GD_NM-Redistricting-Paper-Final-02-1).

<sup>8</sup> Initiative, P. P. (n.d.). New Mexico 2010 Census Guide. Retrieved from <https://www.prisonersofthecensus.org/50states/NM.html>

- Almost 90% of the state's prison cells are located in districts with disproportionately small Native American populations.<sup>9</sup>
- Without the private prison population, District 62 (in Lea County), would have the smallest Native American population of any district.<sup>10</sup>

**The Solution: Pass legislation to end prison gerrymandering and require people who are incarcerated to be counted at their residence prior to incarceration. This can be done at the state, local, or county level.**

### **What Have Other States Done to Address Prison Gerrymandering?**

- Maryland and New York have both implemented prison gerrymandering reform prior to the 2010 census.<sup>11</sup>
- 4 states (CA, DE, NV, WA) have passed reform, but have not yet implemented it.<sup>12</sup>
- Several states have active campaigns for reform

### **Challenges:**

**Identifying where people lived prior to incarceration:** The Department of Corrections offers the best hope of providing the residential addresses of incarcerated persons.

- **Defining prior residence:** Reform efforts in Maryland and New York that such a definition would provide greater clarity and ease implementation.
- **Privacy concerns:** Without proper legislation or an executive order, however, it may break prisoners' rights to privacy to provide address information.

---

<sup>9</sup>Initiative, P. P. (n.d.). New Mexico 2010 Census Guide. Retrieved from

[https://www.prisonersofthecensus.org/factsheets/nm/American\\_Indians\\_NM.pdf](https://www.prisonersofthecensus.org/factsheets/nm/American_Indians_NM.pdf)

<sup>10</sup> [https://www.prisonersofthecensus.org/factsheets/nm/American\\_Indians\\_NM.pdf](https://www.prisonersofthecensus.org/factsheets/nm/American_Indians_NM.pdf)

<sup>11</sup> Erika Wood, "Implementing Reform: How Maryland & New York Ended Prison Gerrymandering," Demos.

<sup>12</sup> Erika Wood, "Implementing Reform: How Maryland & New York Ended Prison Gerrymandering," Demos.