



Research Paper

## Prison Gerrymandering in Texas: Distorting Political Representation and Exacerbating Racial Disparities

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### Abstract

*Our research examines the practice of prison gerrymandering in Texas and its impact on political representation and racial equity. By counting incarcerated individuals at their place of confinement rather than their home communities for redistricting purposes, Texas artificially inflates the political power of certain rural areas while diminishing representation in urban centers. This practice exacerbates existing census undercounts and disproportionately affects communities of color. We analyze the legal and administrative framework surrounding this issue and propose recommendations for addressing prison gerrymandering in the 2030 redistricting cycle and beyond.*

*Received 15 July, 2025; Revised 28 July, 2025; Accepted 31 July, 2025 © The author(s) 2025.*

*Published with open access at [www.questjournals.org](http://www.questjournals.org)*

### I. Introduction

The redistricting process aims to create electoral districts that accurately reflect the communities they represent and distribute political power equitably. However, the practice of counting incarcerated individuals at their place of confinement rather than their home addresses distorts this goal (Nelson, 2019). In Texas, this method of counting artificially bolsters the political power of certain rural communities at the expense of urban areas and other rural regions without prisons (Texas Civil Rights Project, 2021).

As of 2024, Texas incarcerates approximately 166,000 people in state and federal prisons (Prison Policy Initiative, 2024). These individuals are predominantly from the state's largest and most diverse counties but are often incarcerated in a select few rural counties. Nearly 70% of these inmates will return to their home communities before the next Census count, with over 30% returning even before the legislature draws this decade's districts.

### Gerrymandering- What is it?

Manipulation of the political process poses a significant threat to democratic governance. Among the most concerning of these manipulations is gerrymandering (Grofman, 2021). The United States Supreme Court has held that electoral districts must be regularly redrawn to account for population shifts—a process known as redistricting. Furthermore, these districts are required to maintain approximately equal populations to ensure equitable representation. The responsibility for drawing state and federal electoral boundaries often falls to political actors, who rely on population data collected every ten years by the United States Census Bureau (Kirschenbaum, J., & Li, M. (2021).

### Historical Reasons for Prison Gerrymandering

The historical reasons for counting prisoners at their place of incarceration include:

Administrative convenience: Traditionally, the U.S. Census Bureau has counted incarcerated individuals at their prison facilities primarily for administrative reasons, not due to legal or policy considerations

Lack of alternative data: In the past, there was no practical way to obtain accurate home address information for large prison populations in time for the census count.

Census methodology: The census has historically used a "usual residence" rule, counting people where they live and sleep most of the time. For prisoners, this was interpreted as their place of incarceration.

Logistical challenges: Gathering and verifying home addresses for a large, transient prison population presented significant logistical hurdles for census takers.

Consistency with other group quarters: Prisons were treated similarly to other group living situations like college dormitories or military barracks for counting purposes.

Historical precedent: Once established, the practice continued largely due to inertia and the challenges of changing an established system.

Lack of awareness: For many years, the significant impact of this counting method on political representation was not widely recognized or studied.

It's important to note that the Census Bureau has evolved in its approach to counting incarcerated populations. In 2020, for the first time, the Bureau made it practical for states to reassign incarcerated individuals to their home communities by providing more detailed group quarters data as part of the regular redistricting data package (Prison Policy Initiative, 2024).

During the 2020 Census redistricting cycle, 13 states took concrete steps to address prison gerrymandering by reallocating incarcerated people to their last known home address for state legislative or congressional redistricting, rather than counting them at the location of the prison facility. This process helps ensure fairer representation by preventing rural prison-hosting districts from gaining disproportionate political power (The Census Project, 2024).

States That Used the 2020 Census to End Prison Gerrymandering (Reallocated Prison Populations):

1. California
2. Colorado
3. Connecticut
4. Delaware
5. Illinois
6. Maryland
7. Massachusetts
8. Montana
9. Nevada
10. New Jersey
11. New York
12. Pennsylvania
13. Virginia

Some sources also note that Michigan and Tennessee have taken partial steps but did not produce a statewide adjusted dataset for redistricting (The Census Project, 2024). Texas did not choose to use the 2020 Census as a basis for reallocation of prisoners, thus leaving in place the previous system.

### **Prison Gerrymandering in Texas- Distortion of Political Power**

Recent data from the Texas Department of Criminal Justice (TDCJ) reveals that most Texas prisoners come from the most populous counties. Harris County accounts for nearly 15% of the state prison population, followed by Dallas County at 9%. However, these urban counties hold no more than 2% of the state's prisoner population in their facilities (Texas Civil Rights Project, 2021).

In contrast, rural counties like Anderson County hold a disproportionate share of prisoners. Anderson County houses approximately 10% of the state's prisoners while sending less than 1% of TDCJ's population to prison. This disparity creates significant overcounting in certain rural areas, particularly in East Texas, while urban areas and other rural regions are undercounted (Harrison, Stevens et al., 2019).

The impact is most noticeable in Texas House of Representatives districts. For example, if its prison population were removed, Texas House District 8 would lose 21,112 residents, making it 12.59% smaller than the average state house district - well beyond the  $\pm 5\%$  deviation typically considered legally allowable.

Harris and Dallas Counties together account for 24% of Texas's prison population. The remaining 76% of the prison population is distributed among Texas's other 252 counties. This includes major urban counties such as Bexar (San Antonio), Tarrant (Fort Worth), and Travis (Austin), as well as numerous mid-sized and rural counties across the state (CITE).

No single county besides Harris or Dallas comes close to their share, but collectively, the rest of the counties—ranging from large population centers like Bexar, Tarrant, and Travis, to smaller counties such as Smith, Cameron, Brazoria, and others—make up the overwhelming majority of the state's incarcerated population. The distribution is broad, with each county contributing a small to moderate share based on its population size, crime rates, and local incarceration practices. In summary, the remaining 76% of Texas's prison population is spread across all other Texas counties, with significant contributions from other large counties (Prison Gerrymandering Report, 2021).

## State and Federal Prison Locations in Texas

Below is a summary of key Texas state and federal prison locations, along with the most recent available population figures for each facility. Population numbers are drawn from the most current data—note that populations fluctuate, and figures may be from recent surveys or reports.

### State Prisons

Facility Name	Location (City)	Population	Facility Type
Allan B. Polunsky Unit	Livingston	2,962	State
Barry B. Telford Unit	New Boston	2,797	State
Eastham Unit	Lovelady	2,441	State
Alfred D. Hughes Unit	Gatesville	2,951	State
Buster Cole State Jail	Bonham	817	State Jail
Bartlett State Jail	Bartlett	1,042	State Jail
Bradshaw State Jail	Henderson	1,966	State Jail

Texas operates approximately 100 prison facilities, which include both state prisons and state jails. Facility populations can vary from under 1,000 to over 3,000 inmates per location (Prison Policy Initiative, 2023).

### Federal Prisons

Facility Name	Location (City)	Population	Facility Type
Beaumont USP	Beaumont	1,128	High-Security Federal
Beaumont Med FCI	Beaumont	1,633	Medium-Security Fed
Beaumont Low FCI	Beaumont	1,584	Low-Security Federal
Beaumont FCI – Camp	Beaumont	566	Federal
Bastrop FCI	Bastrop	1,219	Low-Security Federal
Bastrop FCI – Camp	Bastrop	179	Low-Security Federal
Big Spring FCI	Big Spring	1,021	Federal
Big Spring FCI – Camp	Big Spring	175	Federal
Bryan FPC	Bryan	909	Minimum-Security Fed

There are 18 stand-alone federal prisons and nine federal camps in Texas, housing more than 14,000 federal inmates (Federal Bureau of Prisons, n.d.)

### Geographic Distribution

- **Clusters:** The majority of Texas state and federal prisons are concentrated near major cities, such as Huntsville, Beaumont, Gatesville, and near the metropolitan areas of Dallas, Houston, and the Rio Grande corridor (Prison Policy Initiative, n.d.).
- **Capacities:** Facility capacities range from a few hundred to over 3,000 inmates per prison. The largest state facilities (e.g. Polunsky, Telford, Hughes) regularly report populations near or above 2,500 (Texas Legislature Online, 2019).
- **Statewide Totals:** As of late 2024, Texas prison facilities (state and federal) held about 134,000 inmates (Texas Department of Criminal Justice, 2022).

### Exacerbation of Census Undercounts

Prison gerrymandering compounds existing issues with census undercounts, particularly affecting racial and ethnic minorities, men, and young children. After the 2010 Census, the Census Bureau noted that ethnic and racial minorities were undercounted relative to the majority population (Wilson, 2024).

The demographics of Texas prisons include a disproportionate number of Black and Hispanic inmates. The harm of counting them at their incarceration facilities is compounded by racial inequities in census administration. In 2010, the census undercounted 2.1% of the Black population and 1.5% of the Hispanic population nationwide.

### **Why Prison Gerrymandering is Bad for Texas**

Texas law treats incarcerated populations inconsistently across different contexts. While the state counts prisoners at their place of incarceration for legislative redistricting, local political subdivisions generally do not include inmate populations when redistricting. Counties with large incarcerated populations often remove inmates from the population count for redistricting county and local offices to avoid skewed representation (Democracy Docket, 2021).

The main arguments against counting prisoners at their place of incarceration for redistricting purposes are:

**Distortion of political power:** Counting prisoners at their place of incarceration artificially inflates the population and political power of rural areas with prisons, while reducing representation for urban areas where most prisoners permanently reside.

**Misrepresentation of communities:** Prisoners are not truly part of the communities where they are incarcerated, as they cannot vote, participate in local affairs, or use local services.

**Exacerbation of existing census undercounts:** This practice compounds existing issues with census undercounts, particularly affecting racial and ethnic minorities, men, and young children.

**Inconsistency with other legal treatments:** While Texas counts prisoners at their place of incarceration for state legislative redistricting, local jurisdictions often exclude prison populations when redistricting for county and local offices (Texas Civil Rights Project, 2021).

**Violation of the "one person, one vote" principle:** By shifting political power away from prisoners' home communities, the practice undercuts fair representation.

**Disproportionate racial impact:** Since Texas prisons have a disproportionate number of Black and Hispanic inmates, prison gerrymandering further diminishes the political voice of these communities.

**Temporary nature of incarceration:** Nearly 70% of prisoners will return to their home communities before the next census, making their allocation to prison districts inaccurate for most of the decade (Ho, D. E., 2011).

**Magnification of rural-urban disparities:** The practice gives certain rural areas, particularly in East Texas, greater representation than other rural areas without prisons.

It's important to note that this practice was not based on careful policy considerations or legal requirements. Rather, it evolved as a matter of administrative expediency. The Census Bureau has acknowledged that this historical practice persisted primarily for administrative reasons, not due to legal or policy considerations (ACLU of Virginia). In recent years, there has been growing awareness of the issues caused by prison gerrymandering, leading to calls for reform and changes in how prisoners are counted for redistricting purposes (Stevens, et al., 2019).

### **Political Impact for Prison Gerrymandering**

Counting prisoners at their place of incarceration has significant impacts on both rural and urban areas in Texas, creating imbalances in political representation:

**Rural areas with prisons gain disproportionate power:** Certain rural counties, particularly in East Texas, are significantly overcounted due to large prison population. For example, Anderson County holds about 10% of the state's prisoners while sending less than 1% of people to prison. This artificially inflates the population and political power of these rural areas.

**Urban areas lose representation:** Major urban counties like Harris (Houston) and Dallas send large numbers of people to prison but house very few. Harris County accounts for nearly 15% of the state prison population but holds no more than 2% of prisoners in its facilities. This leads to undercounting of urban populations for redistricting purposes.

**Disparities between rural areas:** Rural areas with prisons gain more representation than rural areas without prisons. For instance, rural West Texas gets proportionally less representation than rural East Texas, where many prisons are located.

**Concrete political impacts:** In 2011, Harris County lost a seat in the Texas House of Representatives due to the exclusion of incarcerated individuals from its population count (Harrison Stevens et al., 2019). This led to the combination of two Harris County districts with large Black and Hispanic populations, diluting minority voting power.

**Compounding of existing undercounts:** Urban areas and communities of color are already at risk of being undercounted in the census. Prison gerrymandering exacerbates this problem, further reducing representation for these communities.

### **Is prison gerrymandering undermining democracy in the United States?**

Prison gerrymandering undermines democracy by distorting political representation and violating the principle of equal representation. The key reasons why prison gerrymandering is harmful to democracy:

Unequal Representation

Prison gerrymandering counts incarcerated individuals as residents of the districts where prisons are located, rather than their home communities. Since most incarcerated individuals cannot vote, this inflates the political power of voters in districts with prisons while diluting the power of voters in districts without prisons. This violates the constitutional principle of "one person, one vote" by giving disproportionate influence on certain areas (Prison Policy Initiative, 2024).

#### Racial Disparities

Mass incarceration disproportionately affects people of color, particularly Black and Latino individuals. These groups are often incarcerated in rural, predominantly white areas far from their urban home communities. As a result, prison gerrymandering transfers political power from diverse urban areas to less diverse rural districts, exacerbating racial inequities in political representation (Bellware, 2019).

#### Misallocation of Resources

Census data is used not only for redistricting but also for allocating federal and state funding. By counting incarcerated individuals in prison districts, resources meant for their home communities are diverted to areas where they have no meaningful connection or representation.

#### Lack of Accountability

Representatives in districts with prisons have little incentive to advocate for incarcerated individuals since they cannot vote. Instead, these representatives often prioritize the interests of local voters and prison staff, perpetuating policies that support mass incarceration (Nichols, 2019).

#### Inflated Political Power in Rural Areas

Rural districts with large prison populations gain disproportionate political influence despite having fewer actual voters. In extreme cases, very small numbers of voters in prison-heavy districts can wield the same political power as much larger populations in other districts.

#### Undermining Urban Communities

Urban areas, which are often home to most incarcerated individuals, lose political representation and resources when their residents are counted elsewhere. This weakens the political voice of urban communities and reduces their ability to address systemic issues like over-policing and economic inequality (Grofman, 2021).

In summary, prison gerrymandering distorts democratic principles by inflating the voting power of certain districts at the expense of others, disproportionately harming marginalized communities and perpetuating systemic inequities in representation and resource distribution. Ending this practice is essential for achieving fairer and more equitable democracy.

### **Policy Recommendations**

To address prison gerrymandering, we propose the following four recommendations for the next redistricting cycle in 2030 and beyond (Nelson, 2019):

1. Pass state legislation to permanently fix prison gerrymandering.
2. Have redistricting committees work with community nonprofits, community groups and the Texas Legislative Council to reallocate prisoners to their home counties.
3. Reapportion prisoners with projected release dates of 2025 or sooner to their home addresses.
4. Reapportion prisoners to their home addresses solely for the purpose of apportioning state representatives between counties.

## **II. Conclusion**

Prison gerrymandering in Texas significantly distorts political representation, exacerbates racial disparities, and conflicts with how incarcerated populations are treated in other contexts. As the state prepares for the 2021 redistricting cycle, policymakers have an opportunity to address this issue and create more equitable electoral districts that truly reflect the state's population distribution.

To mitigate the prison gerrymandering distortion, the Census Bureau has stated that following the 2020 Census, it plans to offer states a data product that will allow them to reallocate incarcerated populations to their pre-incarceration addresses. While this would enable states to use more accurate data for state and local redistricting and resource allocation, it will neither alter the official decennial census count nor guarantee compliance with the principle of one person, one vote or the Voting Rights Act's protections for minority voting strength. Specifically, this measure is an inadequate remedy for the undercount because, although it permits states to count incarcerated individuals at their prior residence, it does not correct the miscount in the actual Census figures used for federal resource distribution and political representation at the national level (Prison Policy Initiative, 2024).

Counting prisoners at their place of incarceration shifts political power from urban to rural areas, creates disparities between different rural regions, and compounds existing issues of underrepresentation for urban and minority communities. Ultimately, an updated and more accurate rule that counts incarcerated individuals at their

pre-arrest address — rather than at the prison facility where they are held — is necessary to strengthen democracy and better serve the interests of the nation’s residents.

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