

False Body Counts and a Fair Census

Where should prison inmates be counted in a census, in communities where the prison is located, or in their home communities? The answer affects both representation and government funding.

The federal government is mandated by Article I, Section 2 of the United States Constitution to conduct a census count of the population every ten years: "The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years." So 2010 is a census year. We will receive a census questionnaire in the mail soon.

Stolen Power

But we in New York have witnessed a bogus census count and stolen political and economic power in recent decades. The main reason is the greatly expanded state prison population, mostly due to the Rockefeller drug laws. The Census Bureau allows inmates to be counted as residents of communities where their prisons are located rather than their home communities, inflating some upstate legislative districts and affecting the distribution of public resources. Given the overwhelming number of black and brown inmates in state prisons, this is an instance of people of color being used to shore up the political fortunes of white elected officials. Nearly one-third of all those who were counted as moving into upstate areas in the 1990s were prison inmates.

Even though they are not allowed to vote, prisoners are counted as residents of the communities where their prisons are located for the purposes of representation and funding. This is an eerie echo of the era of slavery in the United States, when slaves could not vote but were counted as three-fifths of a person in determining the number of members of the House of Representatives for each state. And do local politicians really "represent" these prisoners?

In New York State, most prisons are located in upstate, rural areas, while most of the state's 60,000 prisoners are from urban areas, especially New York City. Since the census numbers often determine the outlay of government resources, this has the effect of shifting funds from more populated to less populated areas, creating a dysfunctional – and discriminatory – distribution of public funds.

The situation has precipitated a political tug of war in the state. City politicians want inmates to be counted at their last known address before going into prison. Upstate officials want to keep things status quo, lest they lose seats in the Legislature. Some criminal justice experts feel that prisoners should be counted as residents of places where they are most likely to return after leaving prison because that is where any reentry programs are likely to be sited.

Legislative Action

In an attempt to partially rectify this patently unfair situation, State Senator Eric Schneiderman and Assemblyman Hakeem Jeffries have introduced bills in the Legislature to count prisoners as residents of their home communities. The effort has the support of Governor Paterson. Unfortunately, these bills would affect only the drawing of legislative districts, not the distribution of state or federal funds.

Another major reason we don't get a fair census count is because Congress refuses to address the undercount in urban America, an element of every recent census that never gets corrected. There has been some movement from Washington. For purposes of the 2010 census, the Census Bureau is giving states the option of counting prison populations as part of the local population or not. This would create another problem: not counting prison populations at all - besides relegating prisoners to the status of nonpersons - would lower the resident population count of states. In some states, this would mean the threatened loss of a congressional seat.

The equitable practice would be to allow states to count prisoners as residents of their home addresses. But apparently the census process is too far along for this to happen this year; the 2020 census should have this option built into it.

Counting prisoners in communities where their prisons are located might make more sense if prisoners could vote in that locale. In Maine and Vermont, those incarcerated in state prisons are not deprived of the right to vote. But in New York, inmates in state prisons lose the right to vote even when they are paroled from prison. It is only after they serve out their parole that they can re-register to vote.

The current policy of counting prisoners in their prison locales is yet another instance of upstate politicians' bias and unequal treatment of New York, depriving the city of its fair share of government funding and political representation. We saw this most flagrantly in the inequitable distribution of state education funding over decades - an imbalance of as much as a billion dollars a year - that was ended only with the landmark triumph by the Campaign for Fiscal Equity after a 12-year court battle.

This is a policy that both the city's congressional and legislative delegations should fight to correct. The city provides far more in tax monies to both Albany and Washington than it gets back in funding. No taxation without representation ought to extend to fair and equitable representation as well.

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