TEXAS POLITICS
REDISTRICTING

Prisoners lack vote, yet they shape vote

Inmates clustered in rural Texas profoundly if subtly affect politics.

By Jonathan Tilove
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According to the 2010 census, 2,097 of the 36,273 inhabitants of Hale County are in prison. That’s no reflection on Hale or its county seat – the little city of Plainview, located just north of Lubbock. It’s just an artifact of what might be the most common publicly funded enterprise dotting the rural Texas landscape – a correctional institution, or in the case of Hale, two side-by-side state jails, the Wheeler and Formby units, the former named for a local banker and the latter for a radio pioneer who served a term in the Texas Senate.

Playing host to those doing time for crimes mostly committed in the state’s big cities provides places like Hale County a welcome economic lift. But when it comes time to draw lines for the four precincts that each elect a coun-

Prisoners continued on A8
COUNTIES WITH BIGGEST PROPORTION OF PRISONERS

There are 40 Texas counties, and a few cities, with proportionally larger—sometimes far larger—prison populations than Harris County. Here is a list of counties in which prisoners account for more than 20 percent of their populations:

<table>
<thead>
<tr>
<th>County</th>
<th>Total Population</th>
<th>Incarcerated Population</th>
<th>Percent Incarcerated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concho County</td>
<td>4,607</td>
<td>202</td>
<td>4.38</td>
</tr>
<tr>
<td>Garza County</td>
<td>6,491</td>
<td>1,556</td>
<td>23.8</td>
</tr>
<tr>
<td>Mitchell County</td>
<td>5,403</td>
<td>2,296</td>
<td>42.6</td>
</tr>
<tr>
<td>Jones County</td>
<td>20,042</td>
<td>423</td>
<td>2.12</td>
</tr>
<tr>
<td>La Salle County</td>
<td>6,886</td>
<td>1,583</td>
<td>23.2</td>
</tr>
<tr>
<td>Bee County</td>
<td>31,861</td>
<td>7,196</td>
<td>22.6</td>
</tr>
<tr>
<td>Anderson County</td>
<td>58,458</td>
<td>13,163</td>
<td>22.3</td>
</tr>
<tr>
<td>Reeves County</td>
<td>13,783</td>
<td>3,043</td>
<td>22.1</td>
</tr>
<tr>
<td>Harbert County</td>
<td>6,082</td>
<td>1,333</td>
<td>22.1</td>
</tr>
<tr>
<td>Harris County</td>
<td>4,874</td>
<td>3,159</td>
<td>64.6</td>
</tr>
</tbody>
</table>

SOURCE: PRISON POLICY INITIATIVE

PRISONERS continued from A1

ty commissioner, it can present a conundrum: If you count the prisoners when they think, as the U.S. census does, they can end up representing a significant, and occasionally overwhelm-
ing, segment of a pre-
cinct’s population, even though they probably never flew a free bird in the community, and even though, as felons, they cannot vote un-
til they have completed their punishment. But it doesn’t count the inmate population in its entirety, because their residence is not established voluntarily, and, therefore, they don’t have the right to vote.

“It didn’t seem fair to me to exclude that popu-
lation in any precinct because their residence is not established voluntarily, and, since they are convicted felons, they don’t have the right to vote,” said Harris County Judge Dale A. Inman.

If your altruistic goal is to try to make each pre-
cinct have an equal num-
ber of registered voters, and a significant chunk of your population is not allowed to vote, aren’t you sort of undermine-
ing the purpose of the whole thing?”

One could make a case that either view is reasonable, but that’s a debate that’s not even alone in that view. The Prison Policy Initia-
tive, based in Northampton, Mass., Coleman’s view, has become the common wisdom of local officials from coast to coast, as Louisiana, two of the most rural states in the nation. It is an important finding be-
cause elected officials in the ma-
y counties that are home to correct-
tion facilities throughout the state.

Texas have come to view the question very differ-
ently from the way their repre-
sentatives in Austin, if not from the ground up, about that seem-
ed reason.

That so many small cities and town-
ships chose to exclude pris-
oners is all the more re-
markable because the path of least resistance would be to simply ac-
cess the census redis-
certing file as is.

Craig Tounget, execu-
tive director of the com-
mittee drawing Austin’s new City Council Districts, said the panel never con-
sidered whether or not to count 1,505 inmates at the Travis State Jail when drawing the district lines. The jail population was simply part of the 2000 census data and that’s what they went by. As it happens, the 76 percent combined black and Hispanic inmate pop-
ulation at the state jail, located on FM 969 in East Austin, augmented the 71 percent minority pop-
ulation of District 10 in East-
itself a minority-opportu-
nity district – if only ev-
ery so-slightly.

“It’s not enough to skimp things,” said David Richards, general coun-
el to the City’s. The jail’s inmates constitute

ed in the 2010 round of redistricting based on their legal home ad-
resses. Two other states – Delaware and California – have passed laws im-
posing that requirement for the 2020 round, the Supreme Court last year upheld the constitutionality of the California law.

The template for this effort comes from Texas, where Dutton first filed similar legislation in 2018 to try to reclaim for Hous-
ton the population in the 2000 cen-
sus count, a loss that was going to cost the Har-
riss County area its 26th House seat.

In 2018, he filed suit claiming that county in-
mates for redistricting vi-
sions that are not consis-
tent with the state’s election code, which specifies that prisoners don’t “acquire residence” at the place of their conf-
ainment, and unconstitutionally inflated the size of rural districts at the ex-
panse of urban districts. Richards, who represent-
ed Dutton, said the fed-
eral court in San Antonio gave Richards victory.

Eric Opels, a Repub-
ilian strategist and con-

cultures, contends that in-
mates have to be count-
ected in the census be-
cause the presence of mass incarceration is re-
ally about looking at where they will end up included, if at all. We don’t accurate-
ly have a way to place them where they slept on April 1, 2010, so we don’t try to move them.

The argument has also been advanced that the elected representatives for urban communities actually do constitute a smaller popu-
lation in their districts, Dutton said. He called on legislators to call a House committee to hear directly from inmates and get an idea of how many of them that would enable them to redistrict based on the most accurate data.

“Most do absolutely ze-
ro, zilch,” he said.

In Harris County, Cole-
man also dismisses the idea that county commis-
sioners consider inmates at Wheeler or Formby as anything like true constit-
uients.

They’re not going to be calling you on the phone or showing up at a com-
mittee meetings,” Coleman said. “If they do, then you have set of problems.

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