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Editor's Preface to the Spring Edition

Here at Elon University, we are extremely grateful to host The *Pi Sigma Alpha Undergraduate Journal of Politics* for the sixth semester. We are proud to present the Spring 2023 issue and congratulate all authors published in this issue for their high achievement.

This publication seeks to highlight the intellectual curiosity that leads to innovative scholarship in all subfields of political science, scholarship that addresses timely questions, is carefully crafted, and utilizes diverse methodologies. We are committed to intellectual integrity, a fair and objective review process, and a high standard of scholarship as we showcase the work of undergraduate scholars, most of whom pursue questions that have been traditionally ignored in scholarship but that drive our discipline forward.

Following the lead of the *American Political Science Review* (APSR) Editorial Board, we are excited to publish research in the areas of “American politics, comparative politics, international relations, political theory, public law and policy, racial and ethnic politics, the politics of gender and sexuality and qualitative and quantitative research methods.” This publication also values the relationships formed through student-faculty collaboration and aims to build a culture of scholarship that expands beyond the college campus. We hope to encourage and empower students to seek out knowledge and pursue their potential, contributing to scholarship in a variety of disciplines.

This year, we thank our advisors Dr. Baris Kesgin and Dr. Aaron Sparks for their support, without which the issue would not have been possible. We would also like to thank the entirety of the Political Science and Policy Studies Department at Elon University; our Faculty Advisory Board; and all the students who shared their exceptional work with us this semester.

We are excited to present the Spring 2023 edition of the *Journal*. Thank you for your continued support and readership of our publication; we hope you enjoy the edition.

Sincerely,

The Editorial Board at Elon University

Submission of Manuscripts

The *Journal* accepts manuscripts from undergraduates of any class and major. Members of Pi Sigma Alpha are especially encouraged to submit their work. We strive to publish papers of the highest quality in all areas of political science.

Generally, selected manuscripts have been well-written works with a fully developed thesis and strong argumentation stemming from original analysis. Authors may be asked to revise their work before being accepted for publication.

Submission deadlines are September 15th for the Fall edition and February 15th for the Spring edition. Manuscripts are accepted on a rolling basis; therefore, early submissions are strongly encouraged.

Students may submit their work through Elon University's submission portal, found here: <https://www.elon.edu/u/academics/arts-and-sciences/political-science/psa-journal/>

Alternatively, students may email psajournalelon@gmail.com with an attached Word document of the manuscript. In the body of the email, students are asked to include their name and university, the title of the manuscript, and the closest subfield of political science to which their manuscript pertains (American politics, comparative politics, international relations, political theory, or policy studies). Due to the time committed to the manuscript review process, we ask students to submit only one manuscript per submission cycle.

Submitted manuscripts must include a short abstract (approximately 150 words) and citations/references that follow the *APSA Style Manual for Political Science*. Please do not exceed the maximum page length of 35 double-spaced pages, which includes references, tables, figures, and appendices.

The *Journal* is a student-run enterprise with editors and an Editorial Board that are undergraduate students and Pi Sigma Alpha members at Elon University. The Editorial Board relies heavily on the help of our Faculty Advisory Board, which consists of political science faculty from across the nation, including members of the Pi Sigma Alpha Executive Council.

Please direct any questions about submissions or the Journal's upcoming editions to the editors at Elon University: psajournalelon@gmail.com.

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Deconstructing a 'Representational Nexus:' Prison Gerrymandering and Political Representation in Texas

Alyssa Stankevitz, St. Anselm College

This research conducts a reassignment experiment on Texas, analyzing the effects of reassigning incarcerated individuals to their home districts on county and congressional district representational equality. Mass incarceration in the United States exacerbates representational inequality through the Census' 'usual residence' rule, counting incarcerated persons as residents of prison districts for purposes of legislative and congressional apportionment. This phenomenon, prison gerrymandering, allows majority white and rural districts which house prisons to use a majority POC population to inflate population counts and the vote power of non-incarcerated residents. Results find prison gerrymandering in Texas has a significant effect on county and congressional district population. Predominantly White communities in the state see a net benefit from counting incarcerated individuals as residents of prison communities. Majority Black and Latine communities' representational equality is negatively affected by prison gerrymandering; these communities subsequently see a net gain in population under a reassignment experiment, benefiting their representational equality. This work is the first to analyze prison gerrymandering's effects on representation, doing so within a framework of representational equality that has not previously been considered but shows the phenomenon's relationship with historical practices which have upheld white supremacy in the United States.

INTRODUCTION

Prison gerrymandering results from incarcerated individuals being counted by the Census as residents of the congressional or legislative district in which they are incarcerated, rather than that of their home communities. Counting large numbers of incarcerated Americans in prison districts while prohibiting them from voting has the potential to strengthen the vote and representational power of each enfranchised constituent in the prison districts, which are predominantly White and less densely populated. This is problematic given the disproportionately high rates of incarcerated Black, Indigenous and People of Color (BIPOC).

The connection between race and experiencing incarceration inflates the electoral power of White, rural district constituents. Some research has been done regarding the impact of prison gerrymandering on legislative representation within states, but no adequate analysis of its impact on congressional redistricting or county population counts have been done to date nor has the practice's position within the tradition of white supremacy been properly considered. This research analyzes the effects of prison gerrymandering on county population and congressional district representation in the state of Texas. Containing 36 congressional districts, 254 counties, 92 prisons, and over

100,000 incarcerated individuals—Texas provides ample opportunity to analyze how reassigning incarcerated peoples to their home communities could affect the population and political representation of those communities. Results find that prison gerrymandering in Texas has a significant effect on county and congressional district population. Predominantly White communities in the state see a net benefit from counting incarcerated individuals as residents of prison communities. Predominantly Black and Hispanic communities see the inverse, with their population being negatively affected by prison gerrymandering; these communities subsequently see a net gain in population under a reassignment experiment.

This work makes a conscious effort to avoid using the word "prisoners" to refer to those currently incarcerated and being reassigned under the counterfactual experiment. This is due to the author's belief that the condition of being incarcerated is not an identity but rather a situation that in myriad cases has systemic roots in white supremacy, poverty, addiction, and other concerns that are sociologically linked to criminality. This idea is based in scholarship that avoids using the word "slave" when referring to the condition of enslavement, reiterating the lack of autonomy or personal decision that leads a person to a condition of involuntary servitude. Seeing incarceration as a systemic extension of race-based slavery in the United States and not definitive of

any individual worth or identity, this work will be referring to those individuals currently incarcerated as such.

LITERATURE REVIEW

Contextualizing Prison Gerrymandering

Redistricting and the potential for gerrymandering fall under the penumbra of Census population counts and demographic estimates as they pertain to 'special populations.' To avoid malapportioned population counts that might be considered gerrymandering, the Census mandates specific considerations for 'special populations' which might interact differently with the communities in which they're counted. For example, military personnel and college students are considered special populations in that they traditionally reside in a space that is outside the geographic area in which they have social, political, and economic connections. As such, special rules are enumerated for these populations to ensure them equal representation in the political community designated their home (Ebenstein 2017, 339). Incarcerated individuals and their home communities are not afforded such privilege. The United States has legally considered incarcerated individuals as residents of their prison districts for purposes of the Census since its founding (Skocpol 2017, 1480). This came under scrutiny in the late 20th century, when mass incarceration increased substantially and caused large portions of urban and predominantly Black populations to be counted as residents of rural, predominantly White districts (Skocpol 2017, 1486-1487).

Incarcerated individuals are disenfranchised in all but two states, Maine and Vermont (Ho 2011, 356). The disparate regulations with respect to incarcerated individuals' voting becomes ambiguous given that disenfranchising laws can affect inmates who are incarcerated in certain states regardless of their state of origin (Preuhs 2011, 735). The existence of racial disparities at all points in the criminal justice system that serve to incarcerate Black individuals more frequently and for longer sentences further contribute to the incommensurate effects prison gerrymandering has on Black, Indigenous and People of Color (BIPOC) (Ebenstein 2017, 328). Prison gerrymandering's effects are varied and relevant at every level of political community, though the state legislative implications are more widely studied due to the more pronounced effects on state representation (Ho 2011, 381).

Existing Scholarship

There is a dearth of prison gerrymandering scholarship. Its effects or existence is generally tangentially discussed within the greater context of constitutional scholarship or discussions of gerrymandering more broadly. The existing scholarship that does take up prison gerrymandering's effects typically falls into two schools of thought: vote equality/dilution and representative equality/inequality. Most scholars agree that both effects are relevant, but which method of analysis warrants priority varies by scholar. Both theories are discussed below.

Vote Equality

Vote equality has been traditionally defined as instances in which one individual vote is not of "greater influence" than another (Cowan 2015, 443). Vote equality scholarship highlights the vote inflation of prison districts, where considerable numbers of incarcerated populations are housed and counted as residents of, and subsequent vote dilution of home districts, where inmates live before incarceration (Davis 2012, 36). In one Maryland county which housed a prison, each individual vote was worth almost 3 times that in nearby districts because of the large incarcerated population (Davis 2012, 36). In his 2017 analysis, Michael Skocpol also points to the recurring trend of urban populations being relocated to rural districts when incarcerated. By counting predominantly "urban residents" as "rural residents" (Lotke and Wagner 2004, 599) even though these transplanted incarcerated 'residents' cannot vote, voters in White districts have significantly more influence than a voter in a predominantly Black district without vote inflation. Predominantly White, rural areas house around 40% of all incarcerated individuals despite only being the home districts of 20% of the U.S. population (Skocpol 2017, 1487). Prison gerrymandering can thereby distribute voting power unevenly across a given state, giving typically rural areas more voting power in legislative and congressional elections than urban districts (Davis 2012, 35; Engstrom 2014, 539).

Representative Equality

Representative equality considers the ability of an elected official to substantively represent an equal population share and the varied interests within their given constituency. Prison gerrymandering violates representative equality given that it effectively isolates individuals from influencing their elected representatives. Representative equality can be visualized when all state or federal representatives have an equal number of substantive constituents and are able and willing to respond to those constituents' needs (Skocpol 2017, 1500; Reingold 2021, 5). Remanded individuals effectively become "ghost constituents" due to prison gerrymandering, disavowing them of representative access or influence (Skocpol 2017, 1484). This allows the civically free populations of prison districts to receive greater substantive representation than the incarcerated population (Remster and Kramer 2018, 418). Elected officials of prison districts are also limited in how they can represent the interests of incarcerated constituents, given that most conditions of incarceration are regulated by either state or federal guidelines, making it difficult for elected officials to respond to incarcerated constituent interests (Harvard Law Review 2017, 2238). When large portions of a constituency are disenfranchised and isolated some scholars question if representatives can meaningfully represent their evolving interests. Others question if representatives will implicitly support the interests of their enfranchised constituency (Stevens et al 2019, 201-202).

The Case for Reassignment

Demands for reform dominate prison gerrymandering scholarship. Reform is possible because of a shift in the Census' counting protocol during the 2010 reporting, in which they provided data on incarcerated populations and allowed each state to decide whether to assign the population to the prison district, the home district, or exclude them from the count altogether (Stevens et al 2019, 204). Exclusion is generally not considered a valid measure for enumerating incarcerated populations as it falls victim to the same issues as prison gerrymandering in ignoring the community and civic ties of the imprisoned (Ho 2011, 392). Reassignment of residency to home districts is widely considered the best avenue of reform amongst those who study prison gerrymandering (Remster and Kramer 2018, 426; Ebenstein 2017, 365; Ho 2011, 391, Stevens et al 2019, 203). Reassignment is lauded for its recognition of incarcerated individuals' social 'nexus' within their home communities (Skocpol 2017, 1500). Individual states have played an active role in ending prison gerrymandering (Stachulski 2019, 403) including New York and Maryland, which have moved to a reassignment system (Wood 2014, 7). My research will be replicating the methodology of research by Brianna Remster and Rory Kramer of Villanova University that reassigned inmates to their home legislative districts.¹

Intentional Prison Gerrymandering

Racial gerrymandering is illegal. Prison gerrymandering, however, exploits the mass incarceration of People of Color in the United States to deprive both those convicted of crimes and their home communities of equitable political representation and power. Links between prison gerrymandering and systemic inequities and white supremacy can be found in the ways in which the practice exploits a vulnerable population and their community ties, who the practice benefits, and who is intentionally practicing prison gerrymandering.

Historical Roots

Prison gerrymandering's effects on incarcerated individuals and their home communities draw historical connections to manifestations of systemic white supremacy and systemic inequities. Prison gerrymandering has been knowingly used in redistricting, manipulated by officials such as Florida State Representative Janet Adkins. Adkins said in 2015 that the key to beating a Democrat would be redrawing the district "in such a fashion so perhaps, a majority, or maybe not a majority, but a number of them will be in prisons, thereby not being able to vote" (Politico 2015). Beyond this one example, when questioned about their benefiting from prison gerrymandered districts, one Texas State Representative failed to respond and the other asserted that while redistricting must follow proper rules regarding representation, "other tactics within those rules that may help one party over the other...are fair game. I'm in favor of anything that benefits Republicans."

(*Dallas Morning News* 2021) Evaluating incarcerated citizens as avenues to realizing desired election outcomes effectively deprives incarcerated people of their right to meaningful and substantive representation. These uses and effects of prison gerrymandering inform the belief among scholars that prison gerrymandering is causally related to and an extension of the three-fifths amendment of the original Constitution; counting disenfranchised enslaved populations as three-fifths of a free citizen for purposes of population counts for representative apportionment (Browne-Marshall 2016, 155; Drake 2011, 238). Representatives abusing prison gerrymandering to bolster the political power of non-incarcerated individuals perpetuates the cycle of depriving groups that are predominantly People of Color from receiving their equitable political power.

Effects of Prison Gerrymandering

Those intentionally exploiting prison gerrymandering or reaping its benefits cannot feign ignorance of the systemic inequities that incarcerate Black Americans at disproportionate rates. Thus, even if racially blind in language, intentional uses of prison gerrymandering deliberately manipulate the lives and bodies of Americans of Color to bolster the political power of predominantly White, rural areas. This deliberate movement of Black bodies has ramifications that affect the economic and political equity of their home communities and serves the continuation of white supremacy in unequal access to wealth, political power, and other social goods, described below.

Through counting incarcerated individuals as residents of their prison districts rather than their home communities, the home communities are potentially being deprived of representation that they would receive were those incarcerated individuals counted in their home district (Remster and Kramer 2018, 418). This becomes pertinent given the social, political, and economic ties that incarcerated individuals typically have to their home communities. In most states, incarceration does not impact where an individual's residence is counted for school residency, diversity jurisdiction, or other enumeration considerations in which residency is relevant (Ho 2011, 367; Stevens et al 2019, 202). Therefore, incarcerated bodies and their communities are being denied specifically political representation in the areas where their residency is counted for certain records and their presence is still felt in familial, social, or economic ties. The lack of political representation could have extensive ramifications for the nearly \$675 billion in federal funding allocated in accordance with population counts in counties and congressional districts (Frodle 2018, 177) of which People of Color are disproportionately reliant on (Nelson 2019, 1401).

RESEARCH QUESTION AND HYPOTHESES

Seeking to further contextualize previous scholarships' discussion of majority-minority communities, this research hypothesizes that data will indicate prison gerrymandering's

disproportionately negative effects on substantive political representation of predominantly Black and Latine communities.²

H1: *Prison gerrymandering negatively affects the political representation of predominantly Black and Latine communities.*

H2: *Prison gerrymandering benefits the political representation of predominantly White communities that house prisons.*

H3: *Reassigning incarcerated individuals to their home districts will increase the population of predominantly Black and Latine communities more than it will the population of predominantly White communities.*

METHODOLOGY

I conducted my research by first collecting prison admission statistics per county for the state of Texas. Texas was chosen for its readily available incarcerated population data, numerous congressional districts, and large prison population.³ These statistics are available online through the Texas Department of Criminal Justice (TDCJ) and include racial demographics and county residences for each incarcerated individual. Using SPSS, I aggregated individual level data to the county level to visualize total prison admissions per county and by race. This resulted in a dataset with the total number of Texas inmates by race, including their home counties for purposes of reallocation. I was then able to use ArcGIS software accessed through Saint Anselm College to view open access shapefiles that visualize both state congressional districts and counties.⁴ Visualizing the attributes of the two shapefiles together, I was able to view which congressional district each county lies in, also noting which counties lie in more than one congressional district. I calculated, for counties that lie in more than one district,⁵ the percentage of each county in its respective district (hereafter referred to as the ‘county wedge.’) I then calculated the total number of incarcerated peoples in each congressional district before reassignment to adjust the population and figure out where each individual is coming out of, in order to then reassign them to their home district.⁶ Then, assuming homogeneous population distribution within home districts, (because population data doesn’t allow for more precise distribution) I was able to reassign incarcerated individuals to each district or wedge in the correct racial proportions.

To then determine whether the congressional districts should be deemed gerrymandered, I used two methods: the ‘representational nexus’ analysis introduced in the first prison gerrymandering court case, *Calvin v. Jefferson Cty. Bd. Of Comm’rs* alongside the specific quantitative criteria used by Texas to determine if congressional districts are gerrymandered by population. The Florida State Supreme

Court ruled in *Calvin v. Jefferson* that if representational and electoral equality are violated under the analytical framework of a “representational nexus test” then the district can be presumptively considered gerrymandered (*Calvin v. Jefferson Cty Bd. of Comm’rs*, 172 F. Supp. 3d 1292, 1303 (N.D. Fla. 2016)). The test the district court described involves evaluating an individual’s ability to access and influence representatives, enjoy government services and their overall “power in the polity as a whole” (*Calvin* 42). This test gets to the heart of representational equality; analyzing whether relative district population allows all residents to enjoy political representation equally. In my research, I deemed Texas congressional districts presumptively gerrymandered under the representational nexus test if the largest and the smallest district deviated from one another by more than 10%. This standard is used in state legislative tests to determine whether gerrymandering has occurred (Texas Legislative Council 2022) and therefore provides what one can assume is an agreed-upon number after which representational equality of residents is not met. If the largest and the smallest district deviate more than 10%, the residents of those districts would have disparate abilities to access and influence elected representatives — thereby failing the representational nexus test.

Texas defines gerrymandering differently for state legislative and U.S. congressional districts. For state legislative districts, Texas uses the Supreme Court’s deviation test which mandates that the largest and the smallest legislative districts deviate no more than 10% from one another in population size (Texas Legislative Council 2022). Congressional districts are allotted “substantially less population deviation,” (Texas Legislative Council 2022) needing to be “as equal in population as practicable.” (Texas Legislative Council 2022) This results in congressional districts typically being drawn “to be almost exactly the same in population” (Texas Legislative Council 2022). Therefore, any congressional districts after reassignment that are not “almost exactly the same” (Texas Legislative Council 2022) by population were deemed presumptively gerrymandered. The equal population model of analyzing representational equality has acknowledged faults — as some deviation in population size is unavoidable—which is, in part, why my research also uses the representational nexus test to analyze district population size disparities.

Population change in counties affects to what end a representational nexus can be met within overall congressional districts. As such, I analyzed county population change following reassignment to determine on another level which communities were affected by prison gerrymandering. I analyzed counties in three ways: by overall predominant racial demographic, greatest and least population change after reassignment, and specifically analyzing non-contiguous county population change. If majority-minority counties saw a greater number of individuals returned under reassignment relative to White counties, I concluded support for H1, H2,

and H3. If majority-White counties saw greater population reassignment compared to majority-minority counties, I determined a lack of support for my hypotheses.

RESULTS

The results section will begin by examining prison gerrymandering within mass incarceration and white supremacy more generally, providing information that has not previously been specifically contextualized within prison gerrymandering scholarship. After grounding mass incarceration research in examples from Texas, I will elaborate on the results of my reassignment counterfactual. I will display congressional district data, specifically analyzing the districts which see the most disparate population after reassignment. Then, I will provide analysis of county population change following reassignment.

The United States incarcerates more people per capita than any other country in the world (Pettit 2012, 11). As of October 2022, there are almost two million people in the United States currently being held in federal or state prisons (Sawyer and Wagner, Prison Policy Institute 2022). Mass incarceration in the United States began in the 1970's and grew every year thereafter in part due to an emphasis on punitive approaches to crime reduction (Gottschalk 2006, 9). In 1973, the rate of incarceration was 161 per 100,000 people, and by 2012 that number had risen to 767 per 100,000 Americans (National Research Council 2014, 33). This far outpaced other countries (Pettit 2012, 11) and leaves America with almost 20% of all incarcerated peoples globally (Clear and Frost 2014, 17).

Incarceration rates for Black and Latine Americans in the United States align with the rise of mass incarceration discussed above. The rate of incarceration for Black Americans in the year 2000 was twenty-six times higher than it was in 1983 (Alexander 2010, 98). The relative rate of incarceration for People of Color has been over 4% higher than that of White populations since 1970 (National Research Council 2014, 58). For Black Americans specifically, this jumps to a rate five times higher than White Americans in state prisons while Latine individuals are incarcerated at rates 1.3 times higher than White individuals (Sentencing Project 2021). Though the rate of incarceration for all demographics saw a decline in 2020 (Department of Justice 2020) this can hardly be said to be representative of a substantive shift in the American penal system—rather being indicative of the overpopulation of prisons and subsequent threat to inmate health that the COVID-19 pandemic caused. Additionally, the rate of incarceration for Black men has instead seen a net *increase* from 33% per 100,000 in 2018 (Pew Research Center 2018) to 38% per 100,000 in 2022 (Prison Policy Institute 2022).⁷

Texas' prison statistics fit within this narrative. Texas incarcerates 840 per 100,000 residents (Prison Policy Initiative

2022). 2,855 Black individuals are incarcerated for every 100,000 in Texas, compared to 972 Latine citizens, and 768 White residents per 100,000 (Prison Policy Initiative 2022). This data aligns with national trends previously described.

Texas

Previous analyses of Texas concentrated on the effects of prison gerrymandering on state legislative districts and representation. These districts have looser requirements for deeming them gerrymandered—the largest and the smallest district cannot deviate by more than 10%, with that dictating the ideal size of each state house or senate district (Texas Legislative Council 2022). *The Dallas Morning News* conducted a reassignment counterfactual similar to the one discussed in this paper and found that 46 out of 232 state districts that voted for Donald Trump in 2020 would shrink to a deviant size (*Dallas Morning News* 2021). All 46 of these state house districts would lose more than 100,000 people and almost *all* of those reassigned individuals would go back to the five largest counties in Texas; all of which voted for Joe Biden in 2020 (*Dallas Morning News* 2021).

TEXAS CONGRESSIONAL DISTRICTS AFTER REASSIGNMENT

Of the 36 Congressional districts analyzed in Texas, roughly 60% of majority-White congressional districts saw an increase in population under reassignment, compared to roughly 85% of majority-Hispanic districts. This indicates that plurality Hispanic communities lost more population than White communities due to prison gerrymandering. Only two majority-Hispanic congressional districts lost population following the reassignment counterfactual compared to nine majority-White districts; indicating that prison gerrymandering benefited the population of majority White congressional districts in greater proportion than majority-Hispanic congressional districts. Fourteen majority-White congressional districts see a gain in population under the reassignment counterfactual. This does not support H1 but could be explained by the large number of majority-White congressional districts in Texas in comparison to majority-Hispanic districts. When analyzed proportionally, Table 1 shows that roughly 60% of majority-White congressional districts see an increase in population under reassignment, compared to roughly 85% of majority-Hispanic districts. Given that proportional to their representation in Texas congressional districts, majority-Hispanic CDs have a larger increase in population when inmates are reassigned, support for H1 is evident. Texas has no majority-Black congressional districts, which made analysis of population change impossible for this level of political community.

Table 1 provides presumptive support for H2, that prison gerrymandering benefits predominantly White communities. Of the five congressional districts that lose the greatest

Table 1: Congressional Districts losing the greatest population under reassignment:

CD	Population Change	Majority Demographic
CD 8	-12,001	White
CD 36	-11,107	White
CD 14	-9,140	White
CD 5	-7,681	White
CD 13	-6,288	White

population under a reassignment counterfactual, all five are majority White. The only way that a congressional district could lose population under reassignment was if they housed a prison. Therefore, it can be reasonably inferred that these five congressional districts were most benefiting from prison gerrymandering. All five are majority-White, presumptively supporting H2.

The five congressional districts seeing the greatest population gain under the counterfactual, as depicted in Table 2, are mostly White. Only one of the five is majority Hispanic, CD 30. CD 30 alone provides partial support for H1 in showing that a majority-minority district is benefitting more than most White-majority districts under reassignment. Table 2, however, most explicitly depicts a lack of support for H1 and H2. Four of the five most benefiting congressional districts under the reassignment counterfactual are majority White, suggesting that majority-White congressional districts benefit more from reassigning prison populations to their home districts. It is notable, however, that the congressional districts which *receive* the most population back under reassignment do not see as large a shift in population as any of the districts in table 1 which *lost* the largest number of reassigned individuals. Given that reassignment causes more individuals to be taken

Table 2: Congressional Districts gaining the greatest population under reassignment:

CD	Population Change	Majority Demographic
CD 10	+5,204	White
CD 12	+4,315	White
CD 30	+3,683	Hispanic
CD 27	+3,490	White
CD 30	+3,462	White

out of predominantly White counties than reassigned to predominantly White counties—using these most affected counties as an example—this shows loose support for H2. Population loss is greater in the five most affected White districts than population gained for any of the five most affected White congressional districts.

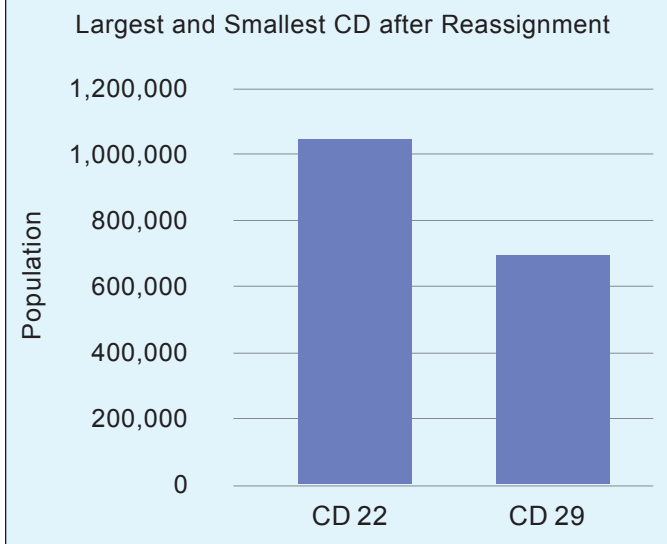
Congressional District Population Size and Representational Nexus Test:

Reassigned districts fail the Texas population equality mandate and the representational nexus test based on size disparities. Following the reassignment counterfactual, the mean of the 36 congressional districts in Texas is 820,043. This is far above the ideal average population for Texas congressional districts, 766,987 (Texas Legislative Council 2021). The ideal population will most likely change following Texas' adoption of two new congressional districts in the 2022 elections, but nevertheless demands analysis for its effects on prison gerrymandering over the years the current districts have been in place. The standard deviation of all 36 congressional districts following inmate reassignment is 87,239. The standard deviation being this high indicates that the values of each district following reassignment are widely spread out—making it hard to argue that the reassigned districts follow a model that demands population be as similar as possible or allow for an equal representational nexus across the state. To further clarify this finding, I will be comparing the largest and smallest congressional district by population after the counterfactual—to show the most disparate evidence that following my reassignment experiment Texas can be deemed gerrymandered and moving urban populations into rural areas.

Districts 22 and 29: A disparity in size

Coinciding with the rise of mass incarceration in the United States was a surge in the number of rural prisons opening, causing a shift in rural population demographics. As prisons became increasingly more rural in the 1990's, the rural prison population grew 120% (Brown-Dean 2016, 166). 1 in 5 of those rural prisons was built in Texas (Brown-Dean 2016, 167). This is notable due to *who* experiences incarceration. Since Black and Latine Americans disproportionately experience incarceration, it can reasonably be inferred that they are a large part of the rural prison population. Racial minorities have traditionally lived by large percentages in urban areas (Martin 2006, 38)⁸. In Texas specifically, most incarcerated peoples' homes are in urban areas (Texas Civil Rights Project 2021, 8). This changes the demographics of specific rural areas that house prisons, shown most starkly in the example of Nevada County California, in which 95% of their Black residents were incarcerated at the time of the census (Brown-Dean 2016, 168). This shows a clear relationship between the propensity towards rural prisons incarcerating citizens of color and their subsequent effects on county, district, and town racial demographics. The 2010 Census showed a substantial

Figure 1: Comparing Population size of Congressional Districts 22 and 29 after Reassignment



increase of the Black and Hispanic population in rural counties nationally, in part correlated with the growth of rural prisons (Brown-Dean 2016, 168; USDA 2005). Given that the Census enumerates prison populations as residents of prison districts (Skocpol 2017, 1480) it can be reasoned that in effect, disproportionately urban and minority populations are counted as residents of rural districts and exacerbating the effects of prison gerrymandering (Skocpol 2017, 1486-1487).

Comparing the largest and smallest congressional districts by population after reassignment, representational equality through the nexus test and Texas population equality evaluations are clearly violated. Majority-White CD 22 had the largest population in Texas, with a population of 1,032,951. While the smallest, majority-Hispanic district 29, has a population of 687,383 after reassignment. The disparity between these two districts displays in the starkest terms the effects of reassignment on population counts.

The largest congressional district by population when incarcerated individuals are counted in their home communities, CD 22, is 44% larger than the smallest congressional district, CD 29. This fails the 10% deviation test used to presumptively determine districts gerrymandered. Both districts vary significantly from the ideal population from the Texas Legislative Council, 766,987 (Texas Legislative Council 2021). This wide disparity makes noncompliance with Texas' guidelines for equal population evident. Further, using the representational nexus test it is impossible to believe that the individuals within the two districts are receiving equal substantive representation—given the wide disparity in the number of citizens. With both districts having a single elected congressional representative, it would be impossible for citizens of the two disparate districts to access, influence, and benefit from their representatives equally under the

representational nexus test introduced in *Calvin v. Jefferson Cty. Bd. Of Comm'rs*. Therefore, these two districts violate the representational nexus test and can be deemed gerrymandered when incarcerated individuals are reassigned to their home congressional districts.

Reassigning incarcerated populations exacerbated the disparate population counts of the two districts. The disparity existed before the counterfactual (CD 22 had 1,034,272 residents and CD 29 had 685,520), thus even if population difference due to reassignment is largely circumstantial, the fact that the majority-White CD 22 population is larger before inmates are reassigned provides support for H2, that majority White communities benefit from prison gerrymandering. This finding specifically provides meaningful insight into the demographics of prison populations and what districts gain or lose populations under an enumeration that assigns inmates to their home districts. District 29, which is the smallest district even though it gains population under the counterfactual, can be described as urban due to its population density (USDA 2022). District 22, which loses population under the counterfactual, loses population, and is comparatively more rural based on population density (USDA 2022). This provides support for and places my research within the sphere of prior research indicating that prison gerrymandering inflated the population of more rural areas in comparison to urban areas.

TEXAS COUNTIES AFTER REASSIGNMENT

Congressional districts offer only one unit of analysis for analyzing the effects of prison gerrymandering on population and representational equality. As such, my research emphasizes the effects of prison gerrymandering on counties—another political territory in which population can affect representative equality.

In states where incarcerated people cannot vote, the incentive for representatives to evaluate the interests of a non-voting constituent equally to that of a voting constituent is low (Harvard Law Review 2017, 2238). This conceptual problem has been realized in several prison communities throughout the U.S. In Anamosa Iowa, a City Councilor was elected with a plurality of just two write-in votes—his wife and a neighbor. This occurred in part because only 58 out of the roughly 1,300 people in his ward were non-incarcerated constituents (*New York Times* 2008). When questioned about his victory and whether he would consider incarcerated individuals while in office, he responded “Do I consider them my constituents? They don't vote, so, I guess not really” (*New York Times* 2008).

County population change from reassigning incarcerated individuals varied depending on size and racial demographics. While county populations are much more disparate than congressional district population, a correlation between overall racial demographics and the sum of people returned to the county is evident.

Section 1: Counties with the largest percentage of Black, Hispanic, and White population

Table 3: CD and Reassignment Data for 5 largest counties by Black Population (Census 2022):

County	Congressional District	Reassigned Population
Jefferson	CD 14 (loss)	1841
Bowie	CD 4 (gain)	875
Houston	CD 8 (loss)	197
Bell	CD 31 (gain)	1457
San Augustine	CD 1 (loss)	29

Table 3 provides specific evidence that supports H1 and more exactly, that predominantly Black districts see the largest population shift following inmate reassignment. Table 3 shows that not every county gains roughly the same number of reassigned inmates, nor are they all within congressional districts that gain or lose population in reassigning inmates. There are, however, several notable trends. To begin, there are no majority-Black congressional districts in Texas. As such, all districts that the majority-Black *counties* are in will be reasonably affected by the dominant racial demographics within the greater district population. The varied result in congressional district outcome in table 3 is therefore neither supportive nor unsupportive of H1 or H2. The number of people returned to each community support H1. Apart from San Augustine County, all the counties experience significant growth in population (larger than the population of some counties in Texas). This indicates not only that a significant number of residents are taken *out* of predominantly Black counties by incarceration, but also that when incarcerated inmates are returned to their home districts, those individuals are in large returned to predominantly Black counties.

Table 4: CD and Reassignment Data for 5 largest counties by Hispanic population (Census 2022):

County	Congressional District	Reassigned Population
Starr	CD 28 (Gain)	95
Webb	CD 28 (Gain)	467
Maverick	CD 23 (Gain)	70
Zapata	CD 28 (Gain)	25
Zavala	CD 23 (Gain)	23

Predominantly Black counties are shown to have the largest gain under reassignment compared to both Hispanic and White majority counties. This demonstrates support for my hypotheses.

Table 4 shows a trend in which the 5 counties with the largest Hispanic population in Texas are all in congressional districts that gain population under a counterfactual that reassigns incarcerated individuals to their home districts.⁹ This trend correlates with an additional finding, that all 5 of the most Hispanic counties by population are within the same two congressional districts (CDs 28 and 23). Given that the five largest Hispanic-populated counties all reside in congressional districts that see a net gain under the counterfactual which returns incarcerated peoples to their home districts, support for H1 and H2 can be concluded. While the actual count of people returned to each county does not reach the levels seen in table 3 depicting majority-Black counties—the concentration of the largest Hispanic-majority counties within two net gain congressional districts lends support to the hypotheses that in reassigning the population, communities of color will see a net increase in population; this community is, however, broader than that of a singular county. This is not true of the five largest White-majority counties, some of which receive no reassigned population and are in a congressional district that sees a net loss (implying that the county itself either loses or remains neutral in population). This further provides support for H1.

Table 5 shows support for H2 given that in all 5 of the Whitest counties in Texas, none reside in a CD that has a net gain under counterfactual nor sees a significant number of reassigned individuals. The range of inmates reassigned to the five counties is 0-23, all equal to or smaller than the least number of people reassigned to predominantly Black and Hispanic counties. This provides evidence for H3. Additionally, the five Whitest counties are concentrated in two congressional districts (CDs 13 and 19) both of which have net losses when prison populations are removed. Using the same assessment demonstrated in the analysis of Table 4, the concentration of the Whitest counties within two congressional districts that lose population support H2 and H3. Given that the five most-

Table 5: CD and Reassignment Data for top 5 Counties by White Population (Census 2022):

County	Congressional District	Reassigned Population
King	CD 13 (Loss)	0
Borden	CD 19 (Loss)	5
Throckmorton	CD 19 (Loss)	12
Clay	CD 13 (Loss)	23
Kent	CD 19 (Loss)	4

White counties in Texas receive less population compared to majority-minority counties under reassignment, support for my hypotheses can be concluded. Reassignment benefits these minority counties more than White counties, displaying that prison gerrymandering is actively taking more residents away from, thereby negatively affecting the political representation and population of predominantly Black and Hispanic counties.

Section 2: Counties with the largest and smallest population changes under reassignment counterfactual

Table 6: Counties Receiving the Least Population Under Reassignment Counterfactual:

County	Congressional District	Majority Racial Demographic	Reassigned Population
King	CD 13 (Loss)	Majority White	0
Lamb	CD 19 (Loss)	Majority Hispanic	0
Loving	CD 23 (Gain)	Majority White	0
Stonewall	CD 19 (Loss)	Majority White	2
Terrell	CD 23 (Gain)	Majority Hispanic	2

Table 6 displays partial support for H1, H2, and H3. All counties listed have 2 or less incarcerated individuals reassigned to their district, though the majority receive none. The five counties are all within three congressional districts (CDs 13, 19, and 23)—all of which are previously discussed within the context of majority Hispanic or White counties.

Congressional district 23 sees a net gain under the reassignment counterfactual—yet majority White Loving County within CD 23 does not see receive any new population under the reassignment experiment. Majority-Hispanic County Terrell, which is also in CD 23, *does* have a net

increase in population by 2. This provides partial support for H1, that majority Hispanic communities receive *more* people than majority White communities under a reassignment counterfactual. This further provides support for H2, given that three of the five counties which see the least change in population under the counterfactual are majority White. But table 6 cannot conclude total support for H2, as two of the five counties listed are majority Hispanic.

Table 7 provides support for H2 and H3. Three out of the five counties receiving the greatest number of residents under reassignment are majority Hispanic. These counties are also receiving a significant net gain, which could be proportional to the size of the county—as Harris, Dallas, and Bexar counties are substantially larger than other counties in Texas. These three counties are also classified as urban based on population density (USDA 2022)—which provides support for analysis that has proposed prison gerrymandering takes a large portion of the population from predominantly urban areas. This provides support for H1, in that the net gain of the three predominantly Hispanic counties table 5 see a greater influx of population than the two majority White counties. This also provides support for H3, given that in counties which receive the greatest population increases (or benefits) under the reassignment counterfactual, majority-minority counties see a greater change than majority White communities. This mirrors the findings reported by *The Dallas Morning News* which found that that under a reassignment procedure targeting state legislative districts, these largest counties saw the greatest population growth. This suggests that should incarcerated populations be reassigned to their home congressional districts, the findings would mirror those reported in *The Dallas Morning News*, that most individuals would be returned to legislative districts that predominantly voted for President Joe Biden in the 2020 election (*The Dallas Morning News* 2021).

Section 3: Non-Contiguous County Analysis

Majority-Hispanic Harris County is the largest county by population in Texas (United States Census Bureau 2022). Given that it is the largest county by population, the split of the county into nine separate wedges across congressional districts is logical based on district size requirements. Harris County in Table 8 provides support for H1 and H2. Six out of nine wedges of Harris County are in congressional districts that see a net gain under the reassignment counterfactual. Of the three wedges that are in congressional districts that see a net loss, two of the wedges are less than 3% of Harris County. All three districts which have a net loss, and a wedge of Harris County are majority White non-Hispanic (United States Census Bureau 2022). Since support for H1 and H2 has been shown, it could be deduced that there is simply not a significant number of Harris County population in those two congressional districts to have a significant impact on the overall net gain or loss of the districts. Given that Harris County is majority Hispanic, since the remaining segments

Table 7: Texas counties receiving the greatest number of individuals under reassignment experiment

County	Congressional District	Majority Racial Demographic	Returning under Counterfactual
Harris	SPLIT	Majority Hispanic	16,937
Dallas	SPLIT	Majority Hispanic	11,071
Bexar	SPLIT	Majority Hispanic	7,816
Smith	CD 1 (Loss)	Majority White	2,430
McLennan	CD 17 (Gain)	Majority White	2,423

Table 8: Harris County Wedges within Congressional Districts and Population returning to each Wedge

Percent of County	Congressional District	Population Returning under Reassignment
19%	CD 2 (Gain)	3218
9%	CD 7 (Gain)	1524
3%	CD 8 (Loss)	508
7%	CD 9 (Gain)	1186
18%	CD 10 (Gain)	3048
13%	CD 13 (Gain)	2202
2%	CD 22 (Loss)	339
11%	CD 29 (Gain)	1863
18%	CD 36 (Loss)	3049

of Harris County are in CDs that have a net gain and Harris County itself has a net gain, it is possible that the net loss of a majority-White county outweighed the net gain of the county wedge. This does not explicitly either provide or deny support for H3. The population reassigned does, however, provide support for H1—given that a majority Hispanic county saw population gain under the reassignment counterfactual. Of the six remaining county wedges, three are in majority White congressional districts (CDs 2, 10, and 13) and three are in majority Hispanic communities (CDs 7, 9, and 29). This further provides partial support for H1 and H3, but not particularly strong support given the even split between majority White and Hispanic communities.

CONCLUSION

The disparities between congressional district and county populations after reassignment show that prison gerrymandering violates the representational nexus and Texas population equality test. Therefore, this research provides support for the hypotheses as previously stated. Hypothesis one, that prison gerrymandering negatively affects the political representation of predominantly Black and Latine communities. Hypothesis two is supported, showing that prison gerrymandering benefits the political representation of predominantly White communities that house prisons. Finally, results demonstrate support for hypothesis three, that reassigning incarcerated individuals to their home districts will increase the population of predominantly Black and Latine communities more than it will the population of predominantly White communities.

No Democracy in a Prison State:

The broader suggestions of this work implicate the United States and the redistricting officials who have used prison gerrymandering to abuse incarcerated individuals and deprive them and their home communities from substantive representation. Prison gerrymandering's existence implies that all levels of representation from local to federal could be unequitable. Further, many of those who are being deprived of their equal representation by prison gerrymandering have marginalized racial identities that have been historically ignored or oppressed by official sources. Consequently, those with identities of historical privilege continue to receive disparate political power that furthers their domination. This research has meaningful policy implications for the distribution of resources within states, as results of this research show that prison gerrymandering currently leaves predominantly Black and Latine communities with unequitable access to government resources and the largely White prison districts with greater access to representatives and resources. Extreme cases of prison gerrymandering could further constitute Voting Rights Act violations and affect election outcomes at both the state and local level—having the potential to effect *where* legislative boundaries are drawn and how political power is to be distributed for years to come. Since People of Color continue to be overrepresented in the criminal justice system, prison gerrymandering can be seen as a linear extension of systematic white supremacy in the United States. The implications of this for democracy are astounding, suggesting that prison gerrymandering prevents America from being truly democratic by perpetuating white supremacy through the continuation of privileging and providing power to predominantly White communities and individuals. The manipulation of incarcerated individuals and their communities prevents both from receiving equitable representative equality. ■

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ENDNOTES

- 1 I will, however, be analyzing prison gerrymandering's effects on congressional representation. I believe this to be an understudied area of prison gerrymandering scholarship. While the effects on congressional representation might be less pronounced due to the larger population, it still necessitates study for the potential effects on community representation.
- 2 I have chosen the language of Latine rather than the normative Latinx due to the inclusivity of the term for non-binary individuals and of ease of pronunciation for Portuguese and Spanish speakers (Mijung Kim 2021, 8)
- 3 Following the 2020 Census, Texas determined the need to add two new congressional districts to account for population growth. My research is done using the 36 congressional districts that were in place and dictated electoral politics before the November 2022 election.
- 4 I would like to express my appreciation to Keven Ruby for his guidance in using GIS software while I worked on this research as an Albert H. Gordon Fellow through the NH Institute of Politics.
- 5 Hereafter referred to as non-contiguous counties.
- 6 There are multiple ways in which incarcerated populations could be removed from their prison districts, including a geographical analysis of within which county wedge each individual resided in to provide for more specific calculation of removal from prison districts. I chose to remove individuals from non-contiguous prison counties and their respective districts in proportion to the amount in which the county is in the CD (For example, if 19% of Harris County is in CD 2 and there are 100 individuals who need to be removed from the Harris County population for reapportionment, I will remove 19% of 100 from Harris County). I chose this model as it is proportional to the way in which I am reassigning population to county wedges.
- 7 The criminal justice system disproportionately affects People of Color in myriad ways that cannot be given proper consideration in a paper of this size and scope. Other factors that influence how long and *why* a person is incarcerated include mandatory minimums and plea bargaining. Mandatory minimums predominantly affect Black Americans (Alexander 2010, 90). As does plea bargaining—which involves moving cases quickly without going to trial; in effect denying them their due process (Kelly and Pitman 2018, 33).
- 8 This fits within the tradition of residential segregation of Black and Latine populations evidenced in legalized redlining (Ware 2018, 109-110) and the de facto segregation of Latine populations areas (Ware 2018, 175).
- 9 All five counties' Hispanic population over 90% (Census 2022).