

August 31, 2016

Karen Humes
Chief, Population Division U.S. Census Bureau
pop.2020.residence.rule@census.gov

Dear Chief Humes,

The Drug Policy Alliance (DPA) submits this comment in response to the Census Bureau's Federal Register Notice regarding the "2020 Census Residence Rule and Residence Situations." **We urge you to count incarcerated individuals at their home address, rather than at the facility they are held at on Census Day. A change in the "usual residence" rule is essential because the policy as currently applied is perpetuating disproportionate harm to communities of color, while simultaneously contributing to an unfair inflation of power within rural, prison districts.**

DPA is the nation's leading organization promoting drug policies that are grounded in science, compassion, health and human rights. Our supporters are individuals who believe the war on drugs is doing more harm than good. We work to ensure that our nation's drug policies no longer arrest, incarcerate, disenfranchise and otherwise harm millions – particularly young people and people of color who are disproportionately affected by the war on drugs.

When it was first implemented, the "usual residence" rule, when applied to incarcerated persons, had no significant impact on political power and influence simply due to how small the incarcerated population was relative to the heavily racialized, prison-industrial complex afflicted state we are currently in.

The presidency of Ronald Reagan marked the start of a long period of skyrocketing rates of incarceration, largely thanks to his unprecedented expansion of the drug war. The number of people behind bars for nonviolent drug law offenses increased from 50,000 in 1980 to over 400,000 by 1997. Today, the United States has over 2.2 million individuals within the nation's prisons and jails, a 500% increase over the last four decades.

In upholding a prison cell as a residence, the Census Bureau inadvertently concentrated a population that is overwhelmingly male, urban, African-American and Latinx, into 5,393 Census blocks that are far from the actual homes and communities of said incarcerated persons. Outside of the sheer increase of the American incarcerated population size, the racialized injustice of the inflation of political power in rural areas, where prisons are disproportionately located, and in turn, the deflation of power within marginalized communities most affected by crime, mass criminalization and incarceration, is troubling. Exemplified in Illinois, 60% of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99% of them as if they resided outside Cook County.

This inaccurate and misleading data manifests in inequitable distortion of representation at both local and state levels and false pictures of community populations which all affect research, funding, allocation of government grants and voting power. Districts with large prisons send a representative to the state capitol on their behalf without actually meeting the required number of residents, undermining the Supreme Court's requirement that political power and representation be based on population. In failing to acknowledge that most incarcerated individuals will return to their home community, the unreliable data provided by the Census Bureau directly and indirectly furthers systematic marginalization of the communities that these individuals will inevitably return to.

Though legislative redistricting is a responsibility of the states, the flawed data provided by the Census Bureau has only been rectified in a few states through various ad hoc approaches – approaches that are neither

efficient nor universally implementable. In New York after the 2000 Census, for example, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents. For this reason, New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes. New York State is not the only jurisdiction taking action. Three other states (California, Delaware, and Maryland) are taking a similar state-wide approach, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.

However, most state constitutions and statutes explicitly establish that state incarceration does not change an individual's residence. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses.¹

The Drug Policy Alliance is concerned that the inaccuracies of the Bureau's current method of counting incarcerated people benefits some, but greatly harms others along racial, class, and geographical lines. We share the following two examples of specific inaccuracies flowing from the Bureau's current method of counting incarcerated persons, which both carry consequences that weigh heavily on race and class: Consider a statistic from New York, where the upstate region has steadily been losing population: in the 2000 Census, almost one-third of the persons credited as having "moved" into upstate New York during the previous decade were persons sentenced to prison terms in upstate prisons. Such false migratory patterns can wreak havoc on seemingly sound policy decisions and how government resources are distributed. In Texas, in two legislative districts drawn after 2000, 12% of the population consisted of incarcerated persons.

This phenomenon shifts political clout and resources to prison districts at the expense of the African-American, Latinx, and/or low-income communities that majority of incarcerated people are most likely to return to. The Census Bureau currently elects to count boarding school students, individuals whom studies have shown are less likely to return to their home community because almost all of them attend college upon graduation, and even military personnel deployed overseas as residents of their home communities. We implore you to consider the unfair implications this antiquated method of counting has on the marginalized.

We supported the passage of New York's law ending prison gerrymandering. On the national front, we have also previously called upon the Census Bureau to change its practice in a 2013 letter submitted along with 209 other organizations.

Thank you for this opportunity to comment on the Residence Rule and Residence Situations. The Bureau should strive to count all people accurately and in keeping with changes in society and population realities. We urge you to count incarcerated people as residents of their home address.

Sincerely,



Queen Adesuyi
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Drug Policy Alliance

¹ See The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).