



August 22, 2016

VIA FIRST CLASS AND ELECTRONIC MAIL

Attention: Ms. Karen Humes, Chief, Population Division
Assistant Division Chief for Special Population Statistics
U.S. Census Bureau
4700 Silver Hill Road
Washington, D.C. 20233

Dear Ms. Humes,

LatinoJustice PRLDEF submits this Comment in response to the Census Bureau's Federal Register Notice regarding the 2020 Decennial Residence Rule and Residence Situations, 81 Fed. Reg. 42,577 (proposed June 30, 2016).¹ We write to urge the U.S. Census Bureau to count and enumerate incarcerated people at their home address, rather than at the particular facility where they happen to be located on Census day.

LatinoJustice PRLDEF, originally established as the Puerto Rican Legal Defense and Education Fund (PRLDEF) in 1972, is one of the country's leading nonprofit civil rights public interest law organizations. We work to advance, promote and protect the legal rights of Latinas and Latinos² throughout the nation. Our work is focused on addressing systemic discrimination and ensuring equal access to justice in the advancement of voting rights, housing rights, educational equity, immigrant rights, language access rights, employment rights and workplace justice, seeking to address all forms of discriminatory bias that adversely impact Latinas and Latinos. In this vein, LatinoJustice PRLDEF has invested significant resources in combatting the

¹ U.S. Census Bureau, 81 Fed. Reg. 42,577 (proposed June 30, 2016) (to be codified at 15 C.F.R. ch. undef.), available at <https://www.federalregister.gov/articles/2016/06/30/2016-15372/proposed-2020-census-residence-criteria-and-residence-situations> (comment period extended by U.S. Census Bureau, 81 Fed. Reg. 48,365 (proposed July 25, 2016) (to be codified at 15 C.F.R. ch. undef.), available at <https://www.federalregister.gov/articles/2016/07/25/2016-17484/proposed-2020-census-residence-criteria-and-residence-situations-extension-of-comment-period>).

² As used in this Comment, the terms "Hispanic" or "Latino" are used interchangeably as defined by the U.S. Census Bureau and "refer to a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race." Karen R. Humes, Nicholas A. Jones & Roberto R. Ramirez, *Overview of Race and Hispanic Origin: 2010*, 2010 Census Briefs, 1, 2 (March, 2011), <http://www.census.gov/prod/cen2010/briefs/c2010br02.pdf>.

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discriminatory effects of a broken and racialized criminal justice system, particularly as it further marginalizes Latino residents in the United States.

As a civil rights organization, we are directly concerned with how Latinas, Latinos, and other communities of color may be impacted by current Census Residence Rules and Residence Situations, particularly where population counts based on Census Residence Rules are employed by elected and appointed officials in redistricting schemes. Our organization has litigated in support of New York’s state law ending prison gerrymandering in *Little v. LATFOR*.³ We believe that ensuring equal representation is imperative to the health of the nation, because it allows for a just democratic system and avoids any racially discriminatory effects of prison gerrymandering—that is, the practice of diluting the political power of Black and Latino neighborhoods by counting incarcerated Black and Latino persons as residents of the legislative districts of the prisons where they are temporarily detained.

In our 2015 Comment in response to 80 FR 28950 (Released May 20, 2015), we outlined three critical reasons why the Bureau should change its current practice of counting incarcerated people’s “usual residence” in state prison facilities and instead count them at their true usual residence in their home communities: (1) The current method does not yield an accurate count of the population; (2) The current method may contribute to possible unlawful gerrymandering in violation of the Equal Protection Clause under the Fourteenth Amendment, as well as potential vote dilution; and (3) Over 200 counties and municipalities in a majority of states do not count or consider prisons as a “usual residence” in redistricting.⁴

Today, we write to reiterate our concerns about the high risk of vote dilution and to urge the Bureau to recognize that interpreting the “usual residence” rule to mean that incarcerated people should be counted where they are detained instead of at their home residences is both illogical and inconsistent. This interpretation of the “usual residence” rule is illogical because most incarcerated people do not live and sleep “most of the time”⁵ at the facilities where they happen to be located on Census day. Moreover, this application is inconsistent with the Bureau’s treatment of various other populations, including deployed military personnel, boarding school students, and members of Congress. The inconsistency is particularly troubling given the well-documented racial and economic inequities of the criminal justice system.⁶ At least with respect to boarding school students and members of Congress, the Bureau should be conscious of its apparent tendency to treat racially and economically privileged populations differently from the

³ *Little v. LATFOR*, No. 2310/2011 at 7 (N.Y. Sup. Ct., Albany Cnty. Dec. 1, 2011).

⁴ Letter from Juan Cartagena, President and General Counsel LatinoJustice PRLDEF, to Karen Humes, Chief, Population Division, U.S. Census Bureau (July 15, 2015) (on file with LatinoJustice PRLDEF), *also available at* http://www.prisonersofthecensus.org/letters/Latino_Justice_Census.pdf.

⁵ U.S. Census Bureau, *supra* note 1.

⁶ *See generally* EXEC. OFFICE OF THE PRESIDENT OF THE UNITED STATES, ECONOMIC PERSPECTIVES ON INCARCERATION AND THE CRIMINAL JUSTICE SYSTEM (2016), *available at* https://www.whitehouse.gov/sites/default/files/page/files/20160423_cea_incarceration_criminal_justice.pdf; *see also* THE SENTENCING PROJECT, TRENDS IN U.S. CORRECTIONS (2016), *available at* <http://sentencingproject.org/wp-content/uploads/2016/01/Trends-in-US-Corrections.pdf>; Peter Wagner & Daniel Kopf, *The Racial Geography of Mass Incarceration*, PRISON POLICY INITIATIVE (July 2015), *available at* <http://www.prisonpolicy.org/racialgeography/report.html>; MICHELLE ALEXANDER, *THE NEW JIM CROW* (2010); Ian F. Haney-López, *Post-Racial Racism: Racial Stratification and Mass Incarceration in the Age of Obama*, 98 CAL. L. REV. 1023 (2010), *available at* <http://scholarship.law.berkeley.edu/facpubs/1880>; THE PEW CENTER ON THE STATES, ONE IN 100: BEHIND BARS IN AMERICA 2008 (2008), *available at* http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes_assets/2008/onein100.pdf.

urban, low-income communities of color that are harmed by prison gerrymandering, especially since—unlike incarcerated people—boarding school students and members of Congress live away from their usual residences by *choice*.

I. Counting incarcerated people where they are detained is illogical because most of them do not live and sleep “most of the time” in the facilities where they happen to be located on Census day.

The Bureau’s current practice is to count incarcerated people wherever they happen to be detained on Census day because, presumably, that is where they live and sleep “most of the time.”⁷ But this is simply not true. People in the prison system are frequently transferred and usually do not remain at any particular facility for even a year.

In New York, for example, in January, 2008, the median time that an incarcerated individual remained at a particular facility was only 7.1 months.⁸ In Georgia, the average person in the state prison system has been transferred four times, and the median time each individual has served at his or her current facility is only nine months.⁹

When people are moving from facility to facility at such predictably irregular and frequent rates, it does not make logical sense to count their “usual residence” as the place where they happen to be located on one particular day. Most incarcerated people are serving short sentences and will return to their home communities.¹⁰ It makes sense to count them where they have family and community ties and where they *live*, and of course, where they will return permanently to eat and sleep, not where they are temporarily imprisoned.

II. The Bureau’s application of the “usual residence” concept is factually inconsistent.

The Bureau claims that “counting prisoners anywhere other than the facility would violate the concept of usual residence, since the majority of people in prisons live and sleep most of the time at the prison.”¹¹ But there are numerous examples of populations who are not counted where they “live and sleep most of the time.” These groups include boarding school students, members of Congress, deployed military personnel, visitors who have close ties to the place they are visiting yet are still counted at home, babies born on or before Census day who are counted where they *will* eat and sleep, and truck drivers who sleep away from home most nights.¹² This

⁷ U.S. Census Bureau, *supra* note 1.

⁸ HUB SYSTEM: PROFILE OF INMATE POPULATION UNDER CUSTODY ON JANUARY 1, 2008, STATE OF NEW YORK DEPT. OF CORRECTIONAL SERVICES ii (2008), *available at* http://www.doccs.ny.gov/Research/Reports/2008/Hub_Report_2008.pdf.

⁹ INMATE STATISTICAL PROFILE, GEORGIA DEPT. OF CORRECTIONS 35 (2016), *available at* http://www.dcor.state.ga.us/sites/all/themes/gdc/pdf/Profile_all_inmates_2016_06.pdf.

¹⁰ KIRSTEN D. LEVINGSTON AND CHRISTOPHER MULLER, BRENNAN CENTER FOR JUSTICE, “HOME” IN 2010: A REPORT ON THE FEASIBILITY OF ENUMERATING PEOPLE IN PRISON AT THEIR HOME ADDRESSES IN THE NEXT CENSUS 8, 9 (2006), *available at* http://www.brennancenter.org/sites/default/files/legacy/d/download_file_36223.pdf (“Indeed, ‘home of record,’ as reported in state and federal administrative records, is widely considered the most robust extant predictor of the place people in prison will return upon release.”).

¹¹ U.S. Census Bureau, *supra* note 1.

¹² U.S. Census Bureau, *supra* note 1; *see also* NAT’L RESEARCH COUNCIL, ONCE, ONLY ONCE, AND IN THE RIGHT PLACE: RESIDENCE RULES IN THE DECENNIAL CENSUS 123 (2006), *available at* <http://www.nap.edu/read/11727/chapter/6#123>; Letter from Peter Wagner, Exec. Dir., Prison Policy Initiative, to

letter focuses specifically on the inconsistency of the application of the usual residence concept to boarding school students and members of Congress versus incarcerated people.

A. Boarding school students are counted at their home addresses, even though they live and sleep most of the time at school, and even though most of them will not return home.

There are about 290 schools in the United States that offer a boarding option,¹³ with at least fifteen schools boarding more than 400 students.¹⁴ One of the Bureau's justifications for counting boarding school students at home is the "likelihood" that they will return home when they stop attending school.¹⁵ But most United States boarding schools have very high college attendance rates upon graduation. In fact, every one of the fifteen schools that board more than 400 students reports a college attendance rate upon graduation of either 99% or 100%.¹⁶ Such high college attendance rates are completely inconsistent with the Bureau's reasoning of the "likelihood" that these students will return home after attending boarding school. Instead they live and sleep most of the time at boarding school and then move on to college where they do the same. Thus, they are far less likely to return home than people who happen to be temporarily incarcerated.

B. Members of Congress are able to choose to be counted in their home states, even though they live and sleep most of the time in Washington, D.C.

Members of Congress fall under the definition of "commuter workers," a population of "persons with one residence where they [stay] on weekends and another residence where they [stay] during the week while working"; hence, the rules . . . count the weekday residence as the usual residence since it [is] the place where the greatest amount of time [is] spent in a given week."¹⁷ Members have the privilege of choosing whether they are counted at home or in Washington, D.C., even if they do in fact stay in Washington, D.C., most of the time.¹⁸ Like incarcerated people, Congress members are serving a time-limited term, and are likely to return home where they have the most family and community ties. No one doubts that a Congress member's usual residence is in his or her home district; incarcerated people should be afforded the same presumption, as they are just as likely to return home to where they have the most family and community ties.

We cite these examples to illustrate that the guideline of counting people where they live and sleep most of the time is a flexible one; the Bureau can and does take into account the unique factual circumstances of various groups of people when determining the meaning of "usual residence." The same logical consideration of the facts should apply to the question of where to

Karen Humes, Chief, Population Division, U.S. Census Bureau (forthcoming, Aug. 2016) (on file with Prison Policy Initiative).

¹³ *Boarding Schools by State/Country*, BOARDING SCHOOL REVIEW, <http://www.boardingschoolreview.com/boarding-schools-by-state> (last visited Aug. 5, 2016).

¹⁴ *Search Schools*, THE ASSOC. OF BOARDING SCHOOLS, <http://www.boardingschools.com/find-a-school/guided-search.aspx> (narrow "Total Number of Boarding Students" to 400 and above for list) (last visited Aug. 8, 2016).

¹⁵ U.S. Census Bureau, *supra* note 1.

¹⁶ THE ASSOC. OF BOARDING SCHOOLS, *supra* note 14 (follow hyperlink for each school and choose "College Info" tab near bottom of screen).

¹⁷ NAT'L RESEARCH COUNCIL, *supra* note 12, at 121.

¹⁸ *Id.* at 123.

count people who are incarcerated, and the inevitable conclusion is that they should be counted in their home communities, where they have the most family and community ties, and to which they will return. Indeed, not doing so for some of these populations raises troubling concerns about the role of race and class in the Bureau’s considerations, as described below.

III. The inconsistency of the Bureau’s application of the “usual residence” to incarcerated people raises troubling concerns about the role of race and class in the Bureau’s considerations.

Boarding schools present a particularly stark example of the race- and class-based disparities that result from the Bureau’s inconsistent application of the usual residence rule. Racial and ethnic demographic information is available through the National Center for Education Statistics for eight of the fifteen schools that board more than 400 students:¹⁹

Boarding School	% White	% Asian	% Black	% Hispanic
Choate Rosemary Hall (Wallingford, CT)	52%	25%	9%	7%
Culver Academies (Culver, IN)	69%	13%	3%	11%
The Hotchkiss School (Lakeville, CT)	58%	19%	10%	3%
Kent School (Kent, CT)	84%	7%	3%	3%
The Lawrenceville School (Lawrenceville, NJ)	55%	21%	10%	6%
Phillips Exeter Academy (Exeter, NH)	56%	23%	11%	9%
St. Paul’s School (Concord, NH)	91%	5%	0.4%	5%
Episcopal High School (Alexandria, VA)	73%	10%	10%	4%
Average:	67%	15%	7%	6%

On average, these eight schools—which, again, represent the largest enrollments of boarding school students for which racial demographics are available—are only 7% Black and 6% Hispanic. These percentages are comparatively low, given that Black and Hispanic representation in the general population is 13% and 16% respectively.²⁰ Moreover, the cost of tuition for full-time boarders at these schools averages around \$53,000, and only about one-third of the students receive financial aid.²¹ Clearly, boarding school students also tend to come from economically privileged families.

¹⁹ These are percentages of each school’s total—boarding and day—population. The average boarding enrollment for all eight schools is about 88%. *Search for Private Schools*, NAT’L CTR FOR EDUC. STATISTICS (Choate Rosemary Hall: https://nces.ed.gov/surveys/pss/privateschoolsearch/school_detail.asp?ID=00233261; Culver Academies: https://nces.ed.gov/surveys/pss/privateschoolsearch/school_detail.asp?ID=A1101060; The Hotchkiss School: https://nces.ed.gov/surveys/pss/privateschoolsearch/school_detail.asp?ID=00233115; Kent School: https://nces.ed.gov/surveys/pss/privateschoolsearch/school_detail.asp?ID=00232541; The Lawrenceville School: http://nces.ed.gov/surveys/pss/privateschoolsearch/school_detail.asp?Search=1&ID=00869171; Phillips Exeter Academy: https://nces.ed.gov/surveys/pss/privateschoolsearch/school_detail.asp?ID=00852124; St. Paul’s School: https://nces.ed.gov/surveys/pss/privateschoolsearch/school_detail.asp?ID=00851903; Episcopal High School: https://nces.ed.gov/surveys/pss/privateschoolsearch/school_detail.asp?ID=01433226).

²⁰ Leah Sakala, *Breaking Down Mass Incarceration in the 2010 Census: State-by-State Incarceration Rates by Race/Ethnicity*, PRISON POLICY INITIATIVE (May 28, 2014), available at <http://www.prisonpolicy.org/reports/rates.html>.

²¹ THE ASSOC. OF BOARDING SCHOOLS, *supra* note 14 (follow hyperlink for each school and scroll down to “Tuition and Financial Aid”).

Members of Congress are obviously also overwhelmingly white and wealthy. The 114th Congress (2015-2016) is about 80% non-Hispanic white,²² though white people compose only about 64% of the total United States population.²³ The base salary for rank-and-file Congress members in 2015 was \$174,000,²⁴ well above the 2014 national median income of \$53,657.²⁵

Meanwhile, in 2010, Black Americans and Latinos made up less than one-third of the general United States population but composed almost 60% of the incarcerated population.²⁶ Non-Hispanic whites—again, around 64% of the total population—make up only 39% of the prison population.²⁷ And a 2014 report by the Prison Policy Initiative found that “incarcerated people had a median annual income of \$19,185 prior to their incarceration, which is 41% less than non-incarcerated people of similar ages.”²⁸ LatinoJustice PRLDEF has grave concerns about the racial and class implications of interpreting the usual residence rule to mean one thing for wealthy, white communities and quite another for poor, Black and Latino communities.

IV. Counting incarcerated people where they are detained instead of at their home addresses may contribute to unlawful gerrymandering and vote dilution.

The use of the prison location as a “usual residence” for Census population counts is not only misleading, as noted above, but results in inaccurate conclusions with potentially discriminatory results for redistricting purposes.²⁹ In 2000, some counties were reported to be growing, but in fact just had expanded prison populations counted there by the Census Bureau.³⁰ Many counties may report a large number of Latino residents because there is a large Latino population incarcerated within county boundaries, which means that the Latino population is overrepresented in counties where they do not reside by choice.³¹ In turn, they are underrepresented in their actual place of usual residence and communities of origin.³² This creates inaccuracies and increases the risk of a distinctively racially-discriminatory impact on the representation of Black and Latino communities.³³

²² See JENNIFER E. MANNING, MEMBERSHIP OF THE 114TH CONGRESS: A PROFILE, CONGRESSIONAL RESEARCH SERVICE 7-8 (2016), available at <https://www.fas.org/sgp/crs/misc/R43869.pdf>.

²³ Sakala, *supra* note 20.

²⁴ *Salaries and Benefits of US Congress Members: The Truth*, ABOUT NEWS, <http://usgovinfo.about.com/od/uscongress/a/congresspay.htm> (Jan. 9, 2016).

²⁵ CARMEN DENAVAS-WALT & BERNADETTE D. PROCTOR, U.S. CENSUS BUREAU, INCOME AND POVERTY IN THE UNITED STATES: 2014 5 (2015).

²⁶ Sakala, *supra* note 20.

²⁷ *Id.*

²⁸ Bernadette Rabuy & Daniel Kopf, *Prisons of Poverty: Uncovering the Pre-Incarceration Incomes of the Imprisoned*, PRISON POLICY INITIATIVE (July 9, 2015), available at <http://www.prisonpolicy.org/reports/income.html>.

²⁹ See Rose Heyer & Peter Wagner, *Too Big to Ignore: How Counting People in Prisons Distorted Census 2000*, PRISON POLICY INITIATIVE (Apr. 2004), <http://www.prisonersofthecensus.org/toobig/size.html>.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ See Nathaniel Persily, *The Law of the Census: How to Count, What to Count, Whom to Count, and Where to Count Them*, 32 *Cardozo L. Rev.* 755, 787 (2011) (“[i]n several states, such as New York and Illinois, the prison population is heavily minority and from urban centers, while prisons are located in rural, largely white counties.”).

These outcomes do not appear to comport with the Supreme Court's Fourteenth Amendment equal protection jurisprudence "one person one vote" standard.³⁴ In *Gray v. Sanders*, the Supreme Court held that Georgia's county-unit system was in violation of the Equal Protection Clause because the method of counting votes diluted a person's vote as the county population increased, causing rural votes to weigh far more than urban votes.³⁵ Given that state and local governments use Census data to redistrict for voting purposes, the current method of counting prisons as a "usual residence" may contribute to the potential violation of the equipopulous "one person, one vote"³⁶ standard, which may also lead to unlawful vote dilution.³⁷

Unlawful vote dilution occurs whenever a State minimizes or cancels out the true voting strength of a racial or language minority under the Federal Voting Rights Act of 1965. What triggers the protections of the Act is the existence of disproportionality in the execution of what may otherwise be race-neutral policies. The combination of the Census Bureau's usual residence rule as proposed in the initial order,³⁸ when combined with, and where it imports documented statistics regarding the racially-skewed outcomes present in our criminal justice systems in the United States, may similarly result in reducing the collective voting strength of Latino and Black communities. On a national scale, 1 out of every 15 Black men and 1 out of every 36 Latino men in the United States is incarcerated.³⁹ Compared to the ratio of 1 of every 106 white men incarcerated,⁴⁰ the outcomes of the criminal justice system exacerbate the loss of concomitant political power in communities of color, and in doing so, may dilute their voting strength.

By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African American or Latino into just 5,393 Census blocks that are removed far from the actual homes of incarcerated people.⁴¹ In Illinois, for example, 60% of incarcerated people's home residences were in Cook County, yet the Bureau counted 99% of them as if they resided outside Cook County.⁴² When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. The consequences of the Bureau's decision to count incarcerated people in the city or town where a prison facility is located carries long-lasting effects, both in the communities where detained people come from and return to, as well as the communities in

³⁴ See, e.g., *Gray v. Sanders*, 372 U.S. 368, 379 (1963) ("How then can one person be given twice or ten times the voting power of another person in a state-wide election merely because he lives in a rural area or because he lives in the smallest rural county? Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote [. . .]. This is required by the Equal Protection Clause of the Fourteenth Amendment"); see also *Reynolds v. Sims*, 377 U.S. 533, 566 (1964).

³⁵ *Gray*, 372 U.S. at 379.

³⁶ U.S. Const. amend. XIV § 1; U.S. Const. amend. XV § 1; *Reynolds*, 372 U.S. at 566.

³⁷ See Peter Wagner, *Breaking the Census: Redistricting in an Era of Mass Incarceration*, 38 WM. MITCHELL L. REV. 1241, 1244 (2012), available at <http://web.wmitchell.edu/law-review/wp-content/uploads/Volume38/documents/2.Wagner.pdf>; see also Michelle Davis, *Assessing the Constitutionality of Adjusting Prisoner Census Data in Congressional Redistricting: Maryland's Test Case*, 43 U. BALT. L.F. 35, 38 (2012) (citing Dale E. Ho, *Captive Constituents: Prison-Based Gerrymandering and the Current Redistricting Cycle*, 22 STAN. L. & POL'Y REV. 355, 388 (2011)).

³⁸ U.S. Census Bureau, *supra* note 1.

³⁹ This data pertains to African American, Latino, and white men of ages 18 and older. African American men ages 20-34 have a much higher incarceration rate of 1 in 9. THE PEW CENTER, *supra* note 6, at 6, 40.

⁴⁰ *Id.*

⁴¹ See 2010 Group Quarters Shapefile, PRISON POLICY INITIATIVE, www.prisonsofthecensus.org/data/2010/groupquartersshapefile.html (last visited Aug. 1, 2016).

⁴² Heyer & Wagner, *supra* note 29.

which detained people are temporarily held, where they are both physically and socially segregated from the rest of the population in those communities and barred from any meaningful participation in public life.⁴³

The Bureau's current proposed usual residence rule limits the freedom to be counted where one calls home and has the most family and community ties, *and appears to limit this freedom specifically for incarcerated people*—a population that is disproportionately Black, Latino, poor, and detained far from home against their will. At the same time, boarding school students and members of Congress—significantly whiter and wealthier populations—have actually chosen to reside away from home. When populations differ so dramatically along the lines of race and class, it is essential to remain critical of seemingly-neutral treatments that result in adverse effects for the communities that remain the most marginalized and the least privileged.

Here, we do not doubt the Bureau's integrity or view its motives with suspicion, but we do implore you to review the glaring inconsistencies in the application of the usual residence rule with a critical awareness of the skewed racial and economic privileges of those who have the freedom to be counted in their home communities, despite the logical similarities they share with incarcerated people. These similarities include the time-limited terms they serve in communities unlike their own, and the likelihood they are to return home.

It appears that the only major difference in the Bureau's methodology in determining usual residence between truck drivers, military personnel, boarding school students, members of Congress, when compared to the Bureau's methodology in determining the usual residence of incarcerated people, *is the difference in the relative weight and value accorded by the Census Bureau to their family and community ties*. Quite simply, there is no principled reason to value the family and community ties of the home districts of prisoners any less than the other populations we have identified here.

V. Proposed residence rules would not only create an inaccurate Census but also further contribute to systemic racial inequity.

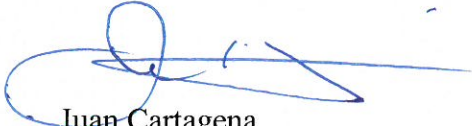
In a time when many underprivileged and underserved people who have been unjustly marginalized are forced to keep reiterating that their lives matter, importing the myriad problems and statistically-proven racial discrimination of the criminal justice system into the calculus of political power and representation is simply an untenable proposition for the American people in 2020.

By discounting disproportionately Black and Latino populations who may be incarcerated far away from their strongest family and community ties, and far away from the homes to which they will return, the U.S. Census Bureau will only further entrench systemic racial inequity. This would be a grave disservice to the American people. Entire families and communities should not be punished or treated as less important simply because a person who calls that family or community their home is temporarily serving their term elsewhere.

⁴³ *Id.*

We strongly urge you to reconsider your initial decision and count incarcerated persons at home, where they have lived and resided, where they will return to live and reside after they serve their time-limited terms, and where they have the strongest family and community ties.

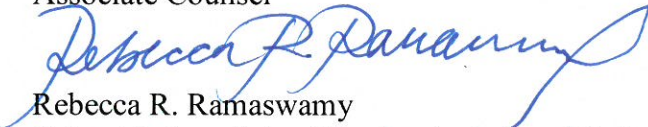
Sincerely,



Juan Cartagena
President and General Counsel



Joanna E. Cuevas Ingram
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Rebecca R. Ramaswamy
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