

August 31, 2016

Karen Humes
Chief of the Population Division
U.S. Census Bureau
Room 6H174
Washington, DC 20233

RE: Residence Rule and Residence Situations, 81 FR 42577 (June 30, 2016)

Dear Division Chief Humes:

The Vera Institute of Justice (Vera) produces ideas, analysis and research that drive change in the systems people rely upon for safety and justice. Much of our work involves close partnership with state and local government and civic leaders. Since 1961, Vera has conducted research on people in jails and prisons across the United States.

We write in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, 81 FR 42577 (June 30, 2016) that proposes to continue counting incarcerated people at the particular facility where they are housed on Census day. Additionally, we understand that the Census Bureau is seeking information on the length of time people stay in prison and jail facilities to help inform this decision.

Vera recommends changing the proposed rule to count incarcerated people in their home communities rather than the correctional facilities where they are housed. Because of the transitory nature of prison and jail housing, counting people in prisons or jails does not accurately reflect their residence situation. If you apply a standard on residency that makes provisions for people at boarding schools or on military deployment to be counted in their home communities, we believe that this should be applied in the same fashion for people in prison. Stays at individual prisons are typically less than nine months and often much shorter than total time incarcerated. Prison stays are transitory for a variety of reasons, such as managing crowding and population, providing needed services, or placement in higher or lower security institutions. And while jails have large impacts on people's lives even if the stay is relatively short, many people are only in jail for a few days before being released.

According to our findings detailed below from three different states on Census day, April 1, 2015, the median length of stay for a person at a particular prison facility was 9 months. The estimated national average length of jail stays was only 23 days.

Median Length of Stay at Prison Facilities

We have calculated information on median length of stay in prison facilities for three states: Washington, Oregon, and Nebraska. There are wide variations in correctional populations and

prison and jail usage in the United States, but these states from two different regions of the country provide insight into the issue of residence.¹

Nebraska

The Nebraska Department of Correctional Services has 9 prison or community corrections facilities for men, and 1 prison facility for women. It had an average daily population of just over 5,200 in April 2015. For the 4,891 men in Nebraska prisons, the median length of stay in a particular facility on census day (April 1, 2015), was 197.5 days; 58 percent of men had been in facilities less than 9 months. For the 322 women in Nebraska prisons, the median length of stay in a facility on census day (April 1, 2015), was 188.5 days; 63 percent of women had been in facilities less than 9 months.

Oregon

Oregon Department of Corrections has 13 institutions for men, and 1 institution for women. It had an average daily population of 14,655 in 2015.² For the 13,633 men in Oregon, the estimated median length of stay in the facility they were housed in on census day (April 1, 2015), was 343 days; 44 percent of men had been in their current facility on April 1, 2015 for less than 9 months. For the 1,300 women in Oregon, the estimated median length of stay in their current facility on census day (April 1, 2015), was 232 days; 55 percent of women had been in their current facility for less than 9 months.

While the median length of stay is closer to a year for men in Oregon facilities, and the highest for state data that we have reviewed, a large number of men—44 percent—still have stays under 9 months.

Washington

Washington Department of Corrections has 10 prison facilities for men, and 2 prison facilities for women, and 16 community corrections or work release facilities. In total, the state had an average daily population of just over 17,400 in 2015. For the 16,287 men in Washington DOC custody, the median length of stay in the facility they were housed in on census day (April 1, 2015), was 266 days; 51 percent of men had been in their current facility on April 1, 2015 for less than 9 months. For the 1,323 women in Washington DOC custody, the median length of stay in their current facility on census day (April 1, 2015), was 224 days; 55 percent of women had been in their current facility for less than 9 months.

¹ The findings in this letter are derived from work supported under a set of agreements with the Nebraska Department of Correctional Services, the Oregon Department of Corrections, and the Washington Department of Corrections (the Agencies). The opinions contained herein are those of the authors and do not necessarily represent those of the Agencies.

² For Oregon, we have complete information related to movements between facilities for 96 percent of men, and 68 percent of women; we are missing information for 566 men, and 419 women. This adds some uncertainty to the estimate, especially for women. Nevertheless, the results are fairly similar to the other states.

Average Jail Stays

In 2013, the estimated national average length of stay in jail was 23 days. However, the distribution of the length of individual stays in jail is highly skewed: a large number of people are released from jail within a couple of days, and very small numbers have long stays, sometimes more than a year awaiting trial, or people who stay in local jails while serving a state prison sentence. Thus, if one used a median length of stay rather than average length of stay it would likely show a very low number, probably along the lines of 2 to 3 days. As far as we know, no one collects national census style data on median length of stay.

Conclusion

Given that our data analysis shows that people frequently serve short lengths of stay in prison and jail facilities of well under nine months, we believe that the Census Bureau should count incarcerated people at their home residence instead of the correctional facility.

Furthermore, given that the United States has a very high incarceration rate, this issue could not be more pertinent. The counting of incarcerated individuals has a marked effect on the fairness of political representation. The process of redistricting, which relies on Census data, aims to ensure that each vote is of equal worth. However, the current census counting of incarcerated individuals hampers this effort and provides areas with prison and jail populations with disproportionate and undemocratic voting power. We therefore recommend that the Census Bureau count incarcerated people at their home residence.

Vera researchers believe that the best way to gather home residence information for people in prison would be to require its inclusion in files maintained by state corrections departments. Requiring prisons and jails to maintain accurate information on home residence and emergency contacts would be consistent with international best practices on maintaining records about people in prison and jail. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), adopted in 2015, include two such rules related to maintaining records on people in prison.

We appreciate the opportunity to comment on this important Residence Rule, and we support the Census Bureau's efforts to improve the accuracy of the Census count. Please do not hesitate to contact us if you have any questions regarding our data or analysis.

Sincerely,



Nicholas Turner
President & Director