July 2, 2015

Dear Karen Humes,

Colorado-CURE submits this comment in response to the Census Bureau’s federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.

We at Colorado-CURE are interested in ending prison gerrymandering/ensuring equal representation in the entire United States. We are 25 year old criminal justice organization in Colorado.

As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.

The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as 1985, Colorado had less than 3,400 people in state prisons, by 2012 that figure was 20,462. As a percentage of our total population over that same time period, Colorado’s incarceration rate has quadrupled. The manner in which this population is counted now has huge implications for the accuracy of the Census.

By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a Colorado population that is disproportionately male, urban, and African-American, Latino or Native American into less than two dozen facilities that are typically located far from the actual homes of incarcerated people.

Because Colorado has not passed legislation like California, Delaware, Maryland, and New York to adjust the Census’ population totals to count incarcerated people at home for state legislative redistricting purposes, this flawed data distorts the legislative redistricting process in Colorado.

However unlike some other states, our state does not contain any instances of prison gerrymandering at the county level because our legislature had the forethought in 2002 to pass Senate Bill 02-007, an Act Concerning County Commissioner Redistricting which requires (emphasis added):

Each district shall be as nearly equal in population as possible based on the most recent federal census of the United States **minus the number of persons serving a sentence of detention or confinement** in any correctional facility in the county as indicated in the statistical report of the Department of Corrections for the most recent fiscal year.

(This statute only applies to county redistricting, but my understanding is that all of the relevant cities in Colorado that contain large correctional facilities have chosen to adjust their redistricting data in similar ways.)

We urge you to bring uniformity and simplicity to this process by counting incarcerated people at home in the next Census.

Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Colorado-CURE believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.

Sincerely,

Colorado-CURE

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