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| July 3, 2015  via email: [POP.2020.Residence.Rule@census.gov](mailto:POP.2020.Residence.Rule@census.gov) | Eric Lotke  253 N. Columbus Street  Arlington, VA 22203  (202) 277-4599 *ericlotke2044@gmail.com* |

**RE: Comment on Usual Residence Rule, 80 FR 28950 (2015)**

To Karen Humes:

Hi there. I am writing to comment on the Census Bureau’s federal register notice regarding the Residence Rule and Residence Situations , 80 FR 28950 (May 20, 2015).

First, I urge you adjust the “usual residence” rule to count incarcerated people at their home address, not where they happen to be incarcerated on census day. Second, I want to thank you for giving this apparently small technical point the attention it deserves. Details like this are what make the Census Bureau such an important and reliable source of information.

I am a professional researcher. For the past five years I have done research at SEIU, the labor union; for five years before that I was research director at Campaign for America's Future, a think tank; for ten years before that I worked in and around the criminal justice system. It would be hard to overestimate how often I use Census data or what I use it for. But locating population for purposes of political apportionment is central and fundamental.

As you know, the US rate of prison incarceration hovered around 100 per 100,000 up until roughly 1980. Nowadays it is closer to 500 per 100,000, without even including local jails. Along with the explosive growth in custody has come growth in racial disparities, with African American men incarcerated at roughly six times the rate of white men. Nowadays over two million people are in prison or jail – one in 100 adults, and more people than our three least populous states combined (I know that from census data; thanks!).

Applying the simple usual residence rule to people in custody might once have been reasonable. But times have changed. Above all else, it affects redistricting, the fundamental purpose of the census. Jurisdictions rely on census data to draw political districts and fairly allocate voters among representative districts. Counting people in custody where they are confined – not where they actually live – introduces avoidable error. Most people in prison will return to their usual residence in far less time than a decennial census.

Four states and over 200 counties and municipalities have enacted new rules to adjust population data when drawing government districts. The states are California, Delaware, Maryland, and New York, who represent 20% of the US population between them. Other states that have considered or are currently considering related actions include Virginia, Illinois, Texas, Georgia and Oregon. If that much of the country thinks something is wrong, it is time for the Census Bureau to act. Indeed, a deliberate national correction is far preferable to ad hoc efforts by assorted jurisdictions on their own.

I note that the Massachusetts legislature might have made a similar adjustment, but it determined that the state constitution binds it to the state to the Census Bureau’s determinations regarding residence[[1]](#footnote-1) and it specifically requested the Census Bureau to change the rule.[[2]](#footnote-2) I expect that still other jurisdictions may have hit similar obstacles or simply haven’t dealt with the problem yet.

Thank you for considering a change in the rule. Because the Census count is fundamental to our representative democracy, I urge you to count incarcerated people where they actually live, not where they are temporarily confined.

Sincerely,

Eric Lotke

1. Determination that state is bound by US Census: *Final Report from the Chairs of the Special Joint Committee on Redistricting* (2012), <https://malegislature.gov/District/ContentPage/RedistrictingDocument7>. [↑](#footnote-ref-1)
2. Resolution asking US Census Bureau to change the rule: <https://malegislature.gov/Bills/188/House/H3185> and <http://is.gd/QcZbfY> [↑](#footnote-ref-2)