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**Via E-mail**

ATTN: Karen Humes, Chief, Population Division  
U.S. Census Bureau, Room 6H174  
4700 Silver Hill Road  
Washington D.C. 20233  
E-mail: POP.2020.Residence.Rule@census.gov

**Re: Comments on 2020 Census Residence Rule and Residence Situations**

Dear Ms. Humes:

The Community Service Society of New York (“CSS”) submits these Comments in response to the Census Bureau’s (“Census”) Federal Register Notice regarding the 2020 Census Residence Rule and Residence Situations, 81 Fed. Reg. 42577 (proposed June 30, 2016). Census has proposed to continue counting incarcerated people at the correctional facility where they are detained on Census Day. **We write to urge Census to reconsider its proposal and instead to count incarcerated people at their home address.**

CSS is an independent, not-for-profit organization that has addressed the root causes of economic disparity in New York for over 170 years. CSS utilizes research, advocacy, litigation and innovative program models that strengthen our city and benefit all New Yorkers. CSS’s Legal Department works to end discrimination faced by individuals who have criminal conviction histories. The Legal Department develops and litigates cases on behalf of individuals and groups of persons with criminal conviction histories, and works toward legislative and policy solutions to the entrenched problems and barriers that they face.

The Legal Department’s work to alleviate post-conviction discrimination and barriers to reentry has highlighted for us how important it is for communities impacted by mass incarceration — which are largely communities of color and low-income communities — to have access to the resources needed to help formerly incarcerated community members build stable and prosperous lives for themselves, their families and their communities. In order for these communities to effectively advocate for themselves, they must have equal access to representation and an equal opportunity to participate in the democratic process. Census’s proposal to continue counting

incarcerated people where they are detained will instead deny equal representation for communities impacted by mass incarceration by contributing to vote dilution.

CSS urges that Census recognize the following important concerns:

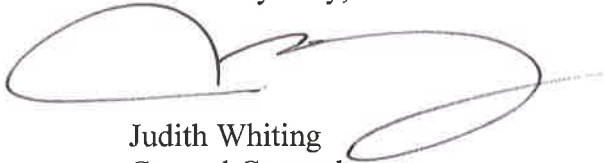
- Prisons are not a “usual residence” because incarcerated people generally maintain family and community ties to their home communities, not to the communities in which prisons are located: Census is wrong to consider incarcerated people as residents of the communities where they are detained because prisons are not a “usual residence.” There is no opportunity for an individual detained behind prison walls to interact with the community where the prison is situated or to develop anything like normal “community ties.” Prisoners do not engage in political, volunteer, school, employment or recreational activities outside the walls. They are not directly affected by what goes on in the local community. Instead, incarcerated people generally maintain family ties to their home community and usually return there when released. It is in these home communities – not in the communities where prisons are located – that incarcerated people access the support, stability and resources needed to successfully move on with life after returning home from prison. Counting prisons as their “usual residence” is an artificial construct that denies the reality of the situation and leads to unjust results.
- Census’s decision to continue counting incarcerated people where they are detained undermines principles of equal representation and impacts incarcerated people’s home communities by diluting the political representation available to those communities: Counting incarcerated people where they are detained has the effect increasing the political power and representation for the communities where they are detained (who do not bear any costs of this incarceration — these costs are paid by the state and federal governments) at the expense of incarcerated people’s home communities. A disproportionate number of incarcerated people come from — and return to — communities of color and low-income communities that have been ravaged by mass incarceration and underinvestment. These communities are entitled to fair, proportionate representation as part of our democracy. This can be achieved if people are properly counted in the communities they call home, not the communities where they reside at sufferance. Otherwise, census data may show that a given district is growing by virtue of the fact that its *prison population* is increasing — a perverse, inherently unfair and intellectually dishonest result.
- Although New York and other states have addressed prison gerrymandering at the state level, Census must fix this problem at the national level: In 2010, New York passed the New York Prison Gerrymandering Law which requires state and county governments to count incarcerated people at their home addresses when drawing legislative districts. The fact that New York (and other states) has taken this important step to address the problem of prison gerrymandering is encouraging. But the issue of equal representation and the dilution of representation for communities which have been impacted by mass

incarceration is too important to be addressed through a patchwork of state and local measures. A national solution to this issue is needed.

- Incarcerated people should not be counted differently than other groups of people who spend time away from their home communities: Census has recognized that various groups of people — including boarding school students, members of Congress and truck drivers who sleep away from home most nights — should be counted in their home communities even though they spend significant amounts of time away from home. Census’s decision to count these groups of people in their home communities recognizes the local connections these groups of people have and the need that they be counted and afforded political representation as part of these communities. Incarcerated people should not be treated any differently.

In sum, CSS strongly urges Census to end prison gerrymandering by counting incarcerated people in their home communities. To do otherwise is intellectually dishonest, unfair, and creates perverse results.

Yours very truly,



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