

Comment on the 2020 Decennial Census Residence Rule and Residence Situations

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August 2016

This comment letter is written in response to the Census Bureau's federal register notice regarding proposed changes to the Residence Rule and Residence Situations as outlined in 81 FR 42577 (June 30, 2016).

The Census Bureau's decision to consider incarcerated individuals as residents of their current place of incarceration, rather than at the place of their permanent residence has profound consequences for racial equality in voting. Because this decision amounts to racial gerrymandering it could also be considered illegal.

Racial gerrymandering has been defined as "the deliberate and arbitrary distortion of district boundaries for racial purposes" [DeWitt v. Wilson, 856 F. Supp. 1409, 1412 (D. Cal. 1994)]. The supreme court has repeatedly ruled that districting decisions which knowingly dilute the impact of certain races are illegal. Based on statistical analysis, I will show that the Census Bureau's Residence Rule produces such an unconstitutional result.

I am an Economist with a degree from London School of Economics and professional statistician. In 2016, I worked together with the Prison Policy Initiative to assesses just how dramatically the Census Bureau's Residence Rule distorts racial demographics by geography. The resulting report, "The Racial Geography of Mass Incarceration", contains our findings.

The Report provides statistics showing how the combination of a disproportionately Black and Latino incarcerated population and the location of prison facilities in majority White areas leads to massive shifts in Black and Latino representation to areas where the Black and Latino populations are very small. We found that there are 208 counties in which there are ten times more Blacks incarcerated in the county than there are Blacks that are not incarcerated. This phenomenon is not isolated to just a few states. 34 states contain a county with a ratio of over ten to one incarcerated Blacks versus non incarcerated Blacks. The table below, taken from the report demonstrates details our findings.

American Counties By the Ratio of Incarcerated Black People Versus Non Incarcerated Black People

Ratio Category	# of Counties	# of States Containing Those Counties
0-1	15	8
1.01-5	194	26
5.01-10	55	23
More than 10	208	34

The Census Bureau's Residence Rule similarly transfers the representation of Latino people to counties where there are very few non-incarcerated Latinos.

American Counties By the Ratio of Incarcerated Latino People Versus Non Incarcerated Latino People

Ratio Category	# of Counties	# of States Containing Those Counties
0-1	50	17
1.01-5	141	31
5.01-10	39	16
More than 10	41	16

The decision to count incarcerated individual as residing in their facility leads to the perverse situation in which counties with almost no Black non-incarcerated permanent residents are receiving the benefits of having hundreds of Black citizens. For example, in Martin County Kentucky, Census data show that while there are only 12 non incarcerated Black people in the country, there are 884 incarcerated Blacks. Counting these 884 Blacks as residents of Martin County, and the transfer of power to which this leads, is in clear violation of the equal protection clause of the 14th Amendment.

My research with the Prison Policy Initiative is not the only study to find the distorting racial demographics effects of where people are incarcerated. Lew Blank, a student at the University of Wisconsin, found that of the 56 places in the state of Wisconsin with a large concentration of Black people, 31 of them were jails or prisons. These jails and prisons are generally located in areas where the population outside of the jail or prison is not predominantly Black. This is more evidence that counting people in their place of incarceration transfers power away from people of color.

Counting inmates as residents of their facility has a profound consequences for racial justice in this country. I hope the Census Bureau will come to the decision to count incarcerated people at their home address, and not allow this discriminatory practice to continue.

Thank you for taking the time to read my comment letter.

Best,
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