



Dear Karen Humes,

Justice for Families (J4F) submits this comment in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, 81 FR 42577 (June 30, 2016). The Bureau's proposal to continue counting incarcerated people at the particular facility that they happen to be located at on Census day ignores the transient and temporary nature of incarceration. If made final, this proposal will mean another decade of decisions based on a Census that counts incarcerated people in the wrong place.

J4F is a national organization that was created by families, for families that have been impacted by the criminal justice system and incarceration. We have nearly 3000 families in 38 states and the District of Columbia. As families that remain behind when our loved ones are incarcerated, we understand and live with the consequences of unequal representation in the Census data. The majority of our families live in poor communities of color that have little to no say in their local and state government, thus making an already vulnerable community even more vulnerable. Our families' experiences have proven time and again that the best solutions to community problems come from the impacted community. When the community is denied accurate representation in the Census data, their solutions and voices go unheard while the voices of those who have no stake and little understanding of the community are given greater value and power.

The Census Bureau defines "usual residence" as the place where a person "eats and sleeps most of the time", but fails to follow that rule when counting incarcerated people. **The majority of people incarcerated in Rhode Island, for example, spend less than 100 days in the state's correctional facilities. If the same people were instead spending 100 days in their summer residence, the Bureau would count them at their regular home address.** Even students in boarding schools get counted at their home address whether or not they eat and sleep there most of the time. The Census Bureau continues to carve out an unexplained exception for incarcerated people in order to count them in the wrong place.

The Bureau's failure to update its rules regarding incarcerated persons is particularly

troubling given that the Bureau decided that other populations – deployed overseas military, and juveniles staying in residential treatment centers – should be counted in their home location even if they are sleeping elsewhere on Census Day. It made these



changes even though there were far fewer public comments identifying these issues as causing the magnitude of problems that the public commentary on the prison miscount highlighted.

The Census Bureau should honor the overwhelming consensus urging a change in the Census count for incarcerated persons. When the Bureau asked for public comment on its residence rules last year, 96% of the comments regarding residence rules for incarcerated persons urged the Bureau to count incarcerated persons at their home address, which is almost always their legal address. This level of consensus among stakeholders, which is based on a thorough understanding of the realities of modern incarceration, deserves far more consideration than it was given.

As you know, American demographics and living situations have changed drastically in the two centuries 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.

The Census Bureau's practice of counting incarcerated people in the wrong place had relatively little impact on the overall accuracy of the Census while prison populations remained relatively low, but the growth in the prison population over the last few decades urgently requires the Census to update its methodology. The incarcerated population has more than quadrupled since the 1970's, and 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 population that is disproportionately male, urban, and African-American or Latino into just a few thousand Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, it artificially inflates the political power of the areas where the prisons are located and dilutes the political power of all other urban and rural areas without large prisons. In New York after the 2000 Census, for example, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate

residents. For this reason, New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes. Three other states (California, Delaware, and Maryland) are taking a similar state-wide approach, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.



Acknowledging the need to correct its own data to avoid prison gerrymandering, the Bureau has proposed to help states with the population adjustment. But this ad hoc approach is neither efficient nor universally implementable. Massachusetts legislators, for example, have already expressed concerns about that state's ability to use alternative data in their 2015 comment to the Bureau (comment numbered c161).

Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to follow the residence rule to count everyone in the right place. My organization believes that in order to produce an accurate 2020 Census, the Bureau must count incarcerated people at home.

Sincerely,

Grace Bauer-Lubow, Executive Director