



A Project of Legal Services
For Prisoners with Children

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Karen Humes, Chief
Population Division
U.S. Census Bureau
Room 5H174
Washington, DC 20233

July 17, 2015

Comment: Residence Rule and Residence Situations – count incarcerated people at home

Dear Ms. Humes,

The undersigned national civil rights, voting rights, labor and criminal justice organizations submit 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.

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. When the "usual residence" rule was first implemented in the first Census, incarcerated persons comprised a vanishingly tiny portion of the country and had no significant impact on representational fairness. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the nation's incarcerated population has more than quadrupled to over two million people. 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 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Illinois, for example, 60% of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99% of them as if they resided outside Cook County.

When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. 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.

New York State is not the only jurisdiction taking action to correct the inaccuracies resulting from tabulating incarcerated persons at the prison location. 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.

But this ad hoc approach is neither efficient nor universally implementable. The states and localities that have decided to avoid the distortions of the current Census rule must create their own population data, because the Census Bureau is not yet publishing the data on home residence that is needed to count this population accurately. Other states find themselves unable to change their practices even when they would like to. The Massachusetts legislature, for example, concluded that the state constitution required it to follow Census Bureau data despite the inaccuracies with respect to incarcerated persons; so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. See The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).

For all these reasons, the Census Bureau must modify its residence rule with respect to incarcerated persons so that all states and localities will have the opportunity to accurately reflect the incarcerated population in their redistricting plans.

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 we believe in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.

Sincerely,

A handwritten signature in black ink that reads "Alexandra Berliner". The signature is written in a cursive, flowing style.

Alexandra Berliner, Organizer

On Behalf of All of Us or None - National