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

July 8, 2015

Dear Karen Humes:

Justice Strategies is submitting 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). Justice Strategies urges 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.

Justice Strategies conducts research on criminal justice and immigration detention issues and supports advocates who seek practical policy solutions and more humane, effective and safe alternatives to the massive and unprecedented incarceration levels that has made the United States number one among all nations for the number of people it places in jails and prisons. The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. Since then, the nation's incarcerated population has more than quadrupled to over two million people, the vast majority of whom will ultimately return to their home communities. The manner in which this population is counted now has huge implications for the accuracy of the Census, and more importantly the very nature of what it means to be a representative democracy.

In order to ensure the proper apportionment of local representatives to our national Congress, Article 1 Sec. 2 of the United States Constitution calls for the enumeration of the population every ten years. The "usual residence" rule violates the spirit, if not the letter, of this constitutional principle, by counting people in correctional facilities as residence of political jurisdictions where neither they, their families, nor their fellow community members are likely to live, and from which their political interests are not represented.

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. Today, the growth in the prison population requires the Census to update its methodology, not only to safeguard the accuracy of the Census, but the political interests of the people of the United States as well.

The inaccuracies inherent in the "usual residence" rule are not just problematic for the proper apportionment of political representation at the national level. States rely heavily on the accuracy of the US Census to do much the same, sometimes with peculiar results. 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. In New York State, after the 2000 Census, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents.

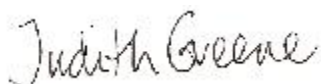
New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes. However, New York is not the only State taking such action. Three other states (California, Delaware, and Maryland) are taking a similar state-wide approach. Additionally, over 200 counties and municipalities individually adjust population data to avoid prison gerrymandering when drawing their local government districts.

Although these ad hoc measures by localities and states are appropriate and necessary adjustments to the inaccuracies inherent in the US Census Bureau's application of the "usual residence" rule, they are neither efficient nor universally implementable. The Massachusetts legislature concluded that its state constitution did not allow it to pass similar legislation. The Massachusetts legislature sent the Bureau a resolution in 2014 urging it 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). We urge the same.

Justice Strategies believes in a population count that accurately represents communities. The accuracy of the US Census is a critically important linchpin of our democracy. We strongly urge you to count incarcerated people as residents of their home address.

Thank you for the opportunity to comment on the Residence Rule and Residence Situations.

Sincerely,

A handwritten signature in cursive script that reads "Judith Greene".

Judith Greene, Director
Justice Strategies