



July 13, 2015

Karen Humes  
Chief, Population Division  
U.S. Census Bureau, Room 5H174  
Washington, D.C. 20233  
Email: POP.2020.Residence.Rule@census.gov

**Re: Census Bureau to count incarcerated people at home in 2020 Census**

Dear Karen Humes:

Legal Services for Prisoners with Children (LSPC) submits 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). LSPC 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.

Founded in 1978, Legal Services for Prisoners with Children (LSPC) enjoys a long history advocating for the civil and human rights of people in prison, their loved ones and the broader community. Our vision of public safety is more than a lock and key. We believe that the escalation of tough-on-crime policies over the past three decades has not made us safer. We believe that in order to build truly safe and healthy communities we must ensure that all people have access to adequate housing, quality health care and education, healthy food, meaningful work and the ability to fully participate in the democratic process, regardless of their involvement with the criminal justice system.

California law says a prison cell is not a residence. "A person does not gain or lose a domicile solely by reason of his or her presence or absence from a place while . . . kept in an almshouse, asylum or prison." (California Elections Code § 2025.) But a longstanding flaw in the Census counts incarcerated people as residents of the prison location, even though they can't vote and aren't a part of the surrounding community. When legislators claim people incarcerated in their districts are legitimate constituents, they award people who live close to the prisons more say in government and dilute the representation of everyone else. This is bad for democracy.

As you know, 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. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.

1540 Market St., Suite 490  
San Francisco, CA 94102

Phone: (415) 625-7049  
Fax: (415) 552-3150

[www.prisonerswithchildren.org](http://www.prisonerswithchildren.org)  
[Jesse@prisonerswithchildren.org](mailto:Jesse@prisonerswithchildren.org)

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. For example, Los Angeles County contains 28% of California's overall population, and 34% of the state's prisoners' population. However, few prisoners are actually incarcerated in Los Angeles, which contains only 3% of California state prison cells. The consequences include, counting thousands of incarcerated men and women as members of the wrong communities and enhancing the political clout of the people who live near prisons. (*California 2010 Census Guide*. Peter Wagner, Mar. 2010. Web. 08 July 2015.)

Another problem with the prison population in California is the racial disparities between Whites, African Americans, and Latinos. African Americans are over-represented in the prison and jails population; African Americans represent 7% of our population but 27% are incarcerated. Hispanics are also over-represented in California prisons and jails; Hispanics represent 38% of our total population and 41% are incarcerated. Compared to Whites who are underrepresented in California Prisons and jails; Whites make up 40% of our population but represent 26% of the incarcerated population. Because African-Americans and Latinos are disproportionately incarcerated, counting incarcerated people in the wrong location is particularly bad for proper representation of African-American and Latino communities. The Census Bureau needs to improve the accuracy of the data about the African-American and Latino population. (Wagner, Peter. "California Profile, Prison Policy Initiative." *California Profile*. N.p., n.d. Web. 08 July 2015.)


Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census's population totals to count incarcerated people at home, 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 Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, 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).

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

Sincerely,

  
Dorsey E. Nunn  
Executive Director

  
Jesse Stout  
Policy Director