

THE GENERAL COURT OF MASSACHUSETTS  
STATE HOUSE, BOSTON 02133-1053

July 8, 2015

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

Dear Ms. Humes,

We write to submit our comments 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 the Census Bureau to count incarcerated people at their permanent home of record address rather than at their place of incarceration for the 2020 Decennial Census.

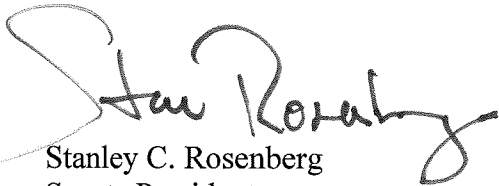
During the last redistricting cycle, the Special Joint Committee on Redistricting received a tremendous amount of testimony and advice on the issue of group quarters and the counting of prisoners at their last place of residence rather than where they are incarcerated. It was pointed out to the Committee that prisons are frequently located in areas geographically and demographically removed from the home communities of incarcerated persons. By counting prisoners at their place of incarceration, rather than the legal address of the person prior to incarceration, the relative strength of votes by residents in that district are inflated at the expense of voters in all other districts in the Commonwealth. The Massachusetts legislature, acting on this testimony and a recommendation by the Committee, sent to the Director of the Census Bureau on August 14, 2014 a resolution urging that the next Census "counts incarcerated persons at their residential address rather than the address of the correctional institution where they are temporarily located".

The U.S. Census continued use of the "usual place of residence" rather than a "legal residence" when counting prison populations means individual states and localities are required to produce their own methodologies for counting prisoners. Currently, California, Delaware, Maryland, and New York take a state-wide approach to adjust the Census' population totals to count incarcerated people at home address. As you may know, the approaches used by Maryland and

New York where challenged in court. Other states may face issues such as we do in Massachusetts where the state Constitution dictates that the federal census be the basis for determining our representative, senatorial, and councillor districts. The question becomes how the counting of prisoners can be handled in the future? We believe that the likelihood of continued uncertainty on the appropriate enumeration of prisoners may result in further litigation on this matter as long as states unilaterally attempt to tailor U.S. Census figures to meet local needs. The most expedient and streamlined avenue for changing the method for counting prison populations lies with the Census Bureau changing their prisoner residence rule procedure. This would provide a systematic and consistent tabulation approach for calculating Congressional re-apportionment and one that is uniform for redistricting in all 50 states. Such a change on the federal level will rectify the perceived inequalities in counting prisoners and eliminate costly litigation for states to defend redistricting plans based on adjusting local prison populations.

Accordingly, we urge you to change Census Bureau policy to count incarcerated people as residents of their home address, rather than at the place of their incarceration.

Sincerely,



Stanley C. Rosenberg  
Senate President  
Co-Chair Special Joint Committee on Redistricting 2010 - 2012



Benjamin B. Downing  
Chair, Senate Committee on Redistricting



Edward F. Copping  
Chair, House Committee on Redistricting



Michael J. Moran  
Division Chair, House of Representatives Leadership  
Co-Chair Special Joint Committee on Redistricting 2010 - 2012

# The Massachusetts General Court



## Resolutions

URGING THE CENSUS BUREAU TO PROVIDE REDISTRICTING DATA THAT COUNTS PRISONERS  
IN A MANNER CONSISTENT WITH THE PRINCIPLES OF "ONE PERSON, ONE VOTE".

**WHEREAS**, OBTAINING AN ACCURATE COUNT OF THE POPULATION IS SO VITAL TO REPRESENTATIVE DEMOCRACY THAT THE FRAMERS OF THE UNITED STATES CONSTITUTION ADDRESSED THE ISSUE OF THE CENSUS AND APPORTIONMENT IN THE OPENING PARAGRAPHS OF THE CONSTITUTION; AND

**WHEREAS**, THE MASSACHUSETTS CONSTITUTION REQUIRES THAT FEDERAL CENSUS DATA BE THE BASIS FOR STATE REDISTRICTING; AND

**WHEREAS**, THE CENSUS BUREAU CURRENTLY HAS A POLICY OF COUNTING INCARCERATED PEOPLE AT THE ADDRESS OF THE CORRECTIONAL INSTITUTION, EVEN THOUGH FOR OTHER LEGAL PURPOSES THEIR HOME ADDRESS REMAINS THEIR LEGAL RESIDENCE; AND

**WHEREAS**, THIS CENSUS DATA RESULTS IN DISTORTIONS OF THE ONE-PERSON, ONE-VOTE PRINCIPLE IN DRAWING ELECTORAL DISTRICTS IN MASSACHUSETTS, DILUTING THE REPRESENTATION OF THE MAJORITY OF DISTRICTS THAT DO NOT CONTAIN PRISONS; AND

**WHEREAS**, THE SIMPLEST SOLUTION TO THE CONFLICT BETWEEN FEDERAL CONSTITUTIONAL REQUIREMENTS OF "ONE PERSON, ONE VOTE" AND MASSACHUSETTS CONSTITUTIONAL REQUIREMENTS OF USING THE FEDERAL CENSUS IS FOR THE CENSUS BUREAU TO PUBLISH REDISTRICTING DATA BASED ON THE LOCATION OF AN INCARCERATED PERSON'S RESIDENCE, NOT PRISON LOCATION; AND

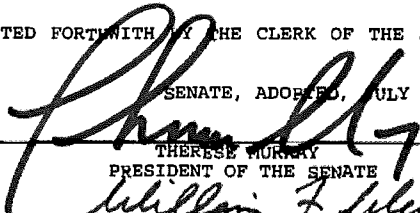

**WHEREAS**, THE CENSUS BUREAU HAS ALREADY RECOGNIZED THE DEMAND FROM STATES AND COUNTIES FOR DATA THAT BETTER REFLECTS THEIR ACTUAL POPULATIONS, AND HAS AGREED TO RELEASE DATA ON PRISON POPULATIONS TO STATES IN TIME FOR REDISTRICTING, ENABLING SOME STATES TO INDIVIDUALLY ADJUST THE POPULATION DATA USED FOR REDISTRICTING; AND

**WHEREAS**, PUBLIC LAW 94-171 REQUIRES THE CENSUS BUREAU TO WORK WITH STATES TO PROVIDE GEOGRAPHICALLY RELEVANT DATA AND THE CENSUS BUREAU HAS BEEN RESPONSIVE TO STATE'S DATA NEEDS FOR THE PAST 3 DECADES; NOW THEREFORE BE IT

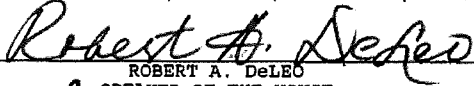

**RESOLVED**, THAT THE MASSACHUSETTS GENERAL COURT HEREBY URGES THE CENSUS BUREAU, IN THE NEXT CENSUS AND THEREAFTER, TO PROVIDE STATES WITH REDISTRICTING DATA THAT COUNTS INCARCERATED PERSONS AT THEIR RESIDENTIAL ADDRESS, RATHER THAN THE ADDRESS OF THE CORRECTIONAL INSTITUTION WHERE THEY ARE TEMPORARILY LOCATED; AND BE IT FURTHER

**RESOLVED**, THAT A COPY OF THESE RESOLUTIONS BE TRANSMITTED FORTHWITH BY THE CLERK OF THE SENATE TO THE DIRECTOR OF THE CENSUS BUREAU.

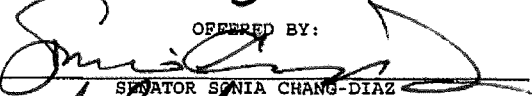
SENATE, ADOPTED, JULY 31, 2014.

  
THERESE MURRAY  
PRESIDENT OF THE SENATE  
  
CLERK OF THE SENATE

HOUSE OF REPRESENTATIVES, ADOPTED, AUGUST 14, 2014.

  
ROBERT A. DeLEO  
SPEAKER OF THE HOUSE  
  
CLERK OF THE HOUSE


OFFERED BY:

  
SENATOR SONIA CHANG-DIAZ

  
REPRESENTATIVE MICHAEL J. MORAN

  
SENATOR LINDA DORCENA FORRY

REPRESENTATIVE EVANDRO C. CARVALHO

  
REPRESENTATIVE BYRON RUSHING

