



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

July 16, 2015

Re: 2020 Census Residence Rules – Count incarcerated people at home

Dear Ms. Humes,

The National Association of Criminal Defense Lawyers (NACDL) 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). NACDL 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.

The NACDL encourages, at all levels of federal, state and local government, a rational and humane criminal justice policy for America -- one that promotes fairness for all; due process for even the least among us who may be accused of wrongdoing; compassion for witnesses and victims of crime; and just punishment for the guilty. But such justice is hard to achieve when legislators gain constituents based on the number of prisoners the Bureau counts in their district.

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 thus the fairness of redistricting.

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 minimum population requirements because the Census counted incarcerated people as if they were upstate residents. This is just one example of the recurring systematic shift of political power away from communities most affected by incarceration to communities that host large prisons. In New York this political shift stymied reform of the harsh Rockefeller Drug Laws long after the public came to understand that these mandatory

incarceration laws were both ineffective and counterproductive. In addition, communities where prisoners are most likely to come from are not recipients of the economic benefits that exist for communities that are able to count prisoners as their residents. This further impedes the economic development of communities most in need.

As you know, four states have passed legislation to adjust their redistricting to count incarcerated people at home for redistricting purposes. But this ad hoc approach is neither efficient nor practical.

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. Because NACDL believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home addresses.

Sincerely,

A handwritten signature in black ink, appearing to read 'K O Dowd', with a long horizontal flourish extending to the right.

Kyle O'Dowd

Associate Executive Director for Policy