

# Prisoners' Legal Services of New York



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July 6, 2015

## **VIA EMAIL AND REGULAR MAIL**

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

Dear Karen Humes,

Prisoners' Legal Services of New York (PLS) 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). PLS 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 1976, PLS provides direct civil legal services to more than 10,000 incarcerated individuals annually. PLS provides this underserved population with legal representation on a myriad of civil legal issues such as access to adequate medical and mental health care, proper housing, education and programming, child support and visitation, challenges to disciplinary proceedings and the use of excessive force, and matters relating to jail time credit and sentence calculations. All of the work PLS does helps prepare incarcerated individuals for release and successful reintegration into society.

Along those lines, PLS is extremely interested in ensuring that the individuals we serve are given equal and appropriate representation by representatives of the communities from which they came and to which they will return. Counting incarcerated individuals at their home address gives those who will be returning to their communities a vested interest in helping to shape the future of their community.

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In the fall of 2006, the National Research Council issued a report commissioned by the United States Census Bureau finding that counting prisoners as residents of the prisons where they were housed distorted the political process and raised legitimate concerns about the fairness of the census itself. Thus, the issue of where to count prisoners in the census is not new.

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. 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.

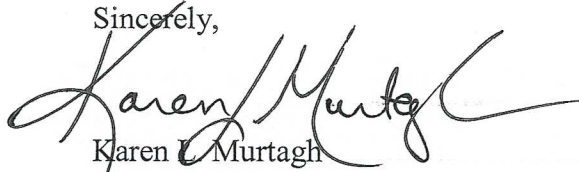
For instance, in New York’s Livingston County, which uses weighted voting, the town of Groveland derived 62% of its population from one large prison after the 2000 census; allowing the Groveland Supervisor to exercise 107 Board of Supervisor votes instead of the 40 votes he would be entitled to without the prison. And the problem extended to the State Legislature as well; 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. 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 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. Because PLS believes 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, appearing to read "Karen L. Murtagh". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Karen L. Murtagh  
Executive Director, PLS