

July 9, 2015

Karen Humes
Chief, Population Division
4600 Silver Hill Road
Suitland, MD 20746

Dear Karen Humes,

I am writing in response to your May 20 Federal Register notice regarding the Residence Rule and Residence Situations.

As a native Texan, I am unnerved by the Census Bureau's policy to count incarcerated people as residents of prison facilities, not of their hometowns. That practice, especially when the data are intended for redistricting, clearly runs counter to the Texas Election Code, which specifies:

In this code, "residence" means domicile, that is, one's home and fixed place of habitation to which one intends to return after any temporary absence... A person who is an inmate in a penal institution... does not, while an inmate, acquire residence at the place where the institution is located.¹

The Census Bureau's Residence Rule ignores Texas law, so community leaders have had to take this problem into their own hands. In an investigation of jurisdictions with large prison populations, researchers found that almost all (86%) Texas communities rejected prison gerrymandering by excluding prisoners from population counts, even if the vote dilution impacts of including prisoners were miniscule.² In some parts of the state, the effects of using uncorrected Census Bureau data would have been far from innocuous. For example, in some jurisdictions – including districts in Childress, Walker, Anderson, Karnes, and Mitchell Counties – prisoners would have made up at least 50% of the population if unaltered Census Bureau data were used, giving voters living near prison facilities undue political influence.³

Fortunately, local government leaders in Texas have overwhelmingly rejected the Census Bureau's interpretation of the Residence Rule in order to avoid prison gerrymandering and

¹ Texas State Legislature, *Texas Election Code*, Sec. 1.015(e). Available at: <http://www.statutes.legis.state.tx.us/Docs/SDocs/ELECTIONCODE.pdf>.

² Peter Wagner, "Avoiding Prison Gerrymandering is Often a Matter of Common Sense: Texas and Louisiana Research Update," *Prison Policy Initiative*, 2013. Available at: <http://www.prisonersofthecensus.org/news/2013/12/06/scatterplot/>.

³ Elena Laverreda, "Not Everything is Bigger in Texas: How Rural Texas Counties with Large Prisons Maintain Fairness in Democracy," *Prison Policy Initiative*, 2010. Available at: <http://www.prisonersofthecensus.org/news/2010/06/02/notbigger/>.

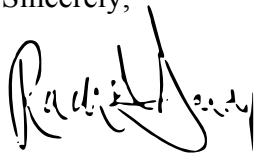
uphold the “one person, one vote” principle. After Census 2010, Hale County Judge Bill Coleman told the *Austin American-Statesman* that excluding prisoners from precinct populations for redistricting purposes was simply common sense:

If your altruistic goal is to try to make each precinct have an equal number of at least potential voters, and a significant chunk of you population is not allowed to vote, aren't you sort of undermining the whole purpose of this thing?⁴

Still, Texas officials have not made the commitment to end prison gerrymandering at the state level as other states, such as California, Delaware, Maryland, and New York, have done. Despite multiple efforts by government leaders and grassroots organizations, Texas continues to rely on your data, which count incarcerated people as residents of prisons. As a result, African Americans and Latinos who disproportionately fill Texas correctional facilities are being used to pad white votes in prison-hosting state districts while also diluting minority votes elsewhere. For example, after Census 2000, 45,000 Texas prisoners were moved from competitive, marginal districts to more conservative districts as a political strategy. Such an egregious example of prison gerrymandering is both troubling and, more importantly, avoidable.

Today, Texas stands among the nation's leaders in many measures of criminal justice severity. My state incarcerates its residents at a higher rate than entire countries like Cuba, Rwanda, and El Salvador.⁵ Where prisoners are counted has a profound impact on the integrity of American democracy. I therefore urge you to count incarcerated people at their home addresses, rather than at the particular facilities where they happen to be located on Census Day.

Sincerely,



Rachel Gandy

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⁴ Jonathan Tilove, “Prisoners Can’t Vote, But They Can Subtly Shift Political Power,” *Austin American-Statesman*, November 30, 2013.

⁵ Peter Wagner, Leah Sakala, and Josh Begley, “States of Incarceration: The Global Context,” *Prison Policy Initiative*, 2014. Available at: <http://www.prisonpolicy.org/global/>.