

# PRISON

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*By email*

Karen Humes  
Chief, Population Division  
U.S. Census Bureau, Room 5H174 Washington, D.C. 20233  
pop.2020.residence.rule@census.gov

Dear Ms. Humes,

The Prison Policy Initiative 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). Based on our research after the 2000 and 2010 censuses, we urge you to count incarcerated people at home in 2020.

The non-profit, non-partisan Prison Policy Initiative produces cutting edge research to expose the broader harm of mass criminalization, and then sparks advocacy campaigns to create a more just society. And over the last 14 years, our work has focused on the sweeping effects of the Census Bureau's prisoner miscount.

We have found that the Bureau's decision to count incarcerated people at the location of the facility they happen to be at on Census day, rather than at home, has shifted political power to people who live near correctional facilities to the detriment of every resident of this country who does not live immediately adjacent to their state's largest prison complex.

This comment will urge you to accept the argument made by former Census Bureau director Kenneth Prewitt in 2004 that "[c]urrent census residency rules ignore the reality of prison life."<sup>1</sup>

This comment presents evidence that the usual residence rule is outdated and produces inaccurate data because of two relatively recent changes: the prison boom and the apportionment revolution that requires decennial redistricting at all levels of government on the basis of population. This comment reviews the harm of prison gerrymandering for our democracy in state legislative, county and municipal districting, and then presents evidence of a national consensus for ending prison gerrymandering. Finally, this comment presents evidence that despite its considerable impact on redistricting and some assumptions to the contrary, measurable effects of the rule's interpretation do not extend to other areas.

We thank you for your attention to this issue, including this call for comments. We take this opportunity to share with you our 14 years of research into the effects of the

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<sup>1</sup> Dr. Kenneth Prewitt, Foreword to *Accuracy Counts*, Brennan Center for Justice at NYU School of Law. Available at <https://www.brennancenter.org/publication/accuracy-counts>

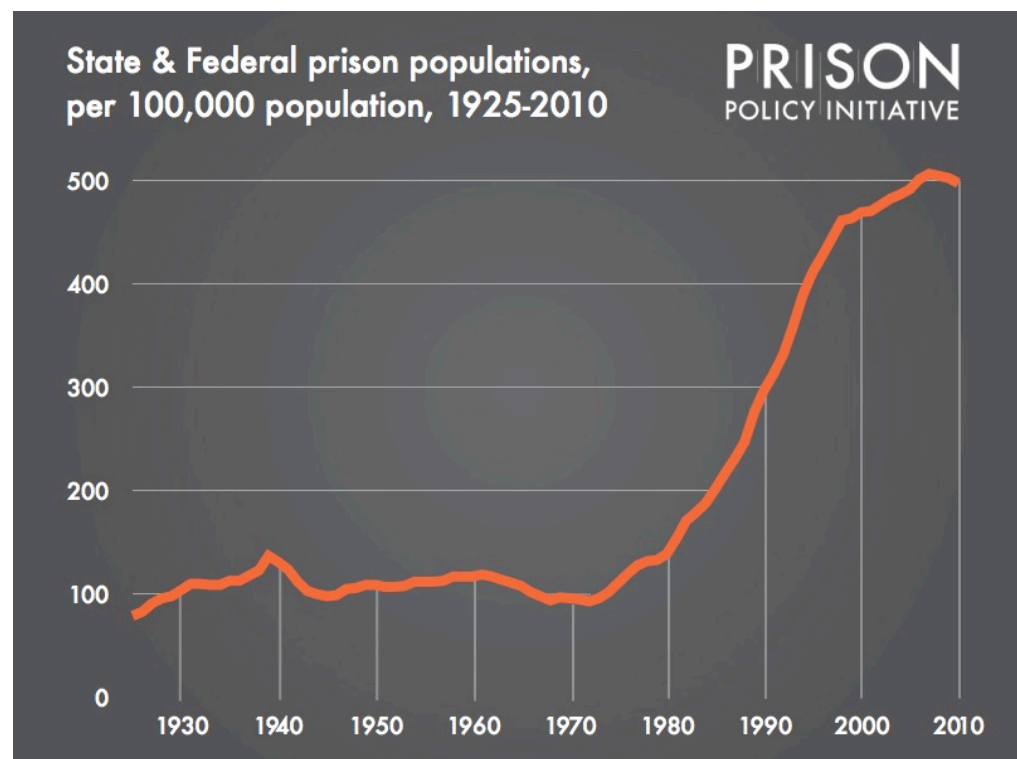
Bureau's current interpretation of the residence rule, and urge you to count incarcerated people at home.

**The usual residence rule for incarcerated people is outdated and produces inaccurate data.**

The Census Bureau's method of counting incarcerated people as residents of the correctional facilities is outdated and inaccurate because both our society and our need for accurate data have changed since the residence rules were first articulated for incarcerated people.

The prison boom has changed the demographic landscape

In the history of this country and the Census, the fact that we lock up such a large portion of our society is relatively new:



**Figure 1.** The 1990 Census was the first to register the beginning of mass incarceration. As a result of the Census Bureau's now outdated usual residence rule for incarcerated people, the 2010 Census counted a record portion of our population in the wrong location.

The prison boom began in the 1970s, but its impact on the 1980 Census was, from a national viewpoint, modest. In fact, the Bureau didn't even see it as necessary to mention incarcerated household members on the census form until the 1990 Census. But by 2000, the incarceration rate was more than four times higher than just two decades earlier. So the Bureau's data did not result in a significant harm to our democracy until after the 2000 and 2010 Censuses.

At the last Census, the Bureau counted over 2 million incarcerated people in the wrong place. That in itself is problematic for an agency that prides itself on providing

accurate data, but the significance and disparate impact of that miscount is even greater than it might first appear.

First, while the popular perception may be that most people in prisons and jails are serving long sentences, the opposite is actually true. The typical state prison sentence is only two or three years, and the incarcerated people are frequently shuffled between facilities at the discretion of administrators. For example, statistics in New York State show that the median time an incarcerated person has been at his or her current facility is just over 7 months.<sup>2</sup> (And the jail population turns over even faster than that in the prisons. At Rikers Island, New York City's jail, the average stay is 57 days.<sup>3</sup>)

Further, a stark and significant racial disparity in who goes to prison compounds the impact of a growing prison population. Our analysis of 2010 Census data shows that Blacks are incarcerated at 5 times the rate of non-Hispanic Whites, and Latinos are incarcerated at a rate almost two times higher than non-Hispanic Whites.<sup>4</sup> Within those disparities are greater disparities by age and gender. For example, the incarceration rate for Black men aged 25-29 peaked in 2001 when a shocking 13% of Black men of those ages were incarcerated in federal and state prisons or local jails. By contrast, that same year, only 0.04% of white women aged 45-55 were incarcerated.<sup>5</sup>

For the Census, however, another factor compounds the racial distortions: the enduring and troubling trend to build the prisons in communities that are very different demographically than the people they confine. As discussed in the attached report released last week, *The Racial Geography of Mass Incarceration*, we reviewed the magnitude of the gulf between the incarcerated population and the surrounding counties; finding 161 counties where incarcerated Blacks outnumber free Blacks, and 20 counties where incarcerated Latinos outnumber free Latinos. In many counties, the disparity is particularly stark. We found 208 counties where the portion of the county that was Black was at least 10 times smaller than the portion of the prison that was Black. For Latinos, we found 41 counties where the portion of the county that was Latino was at least 10 times smaller than the portion of the prison that was Latino. These counties are spread throughout a majority of the states:

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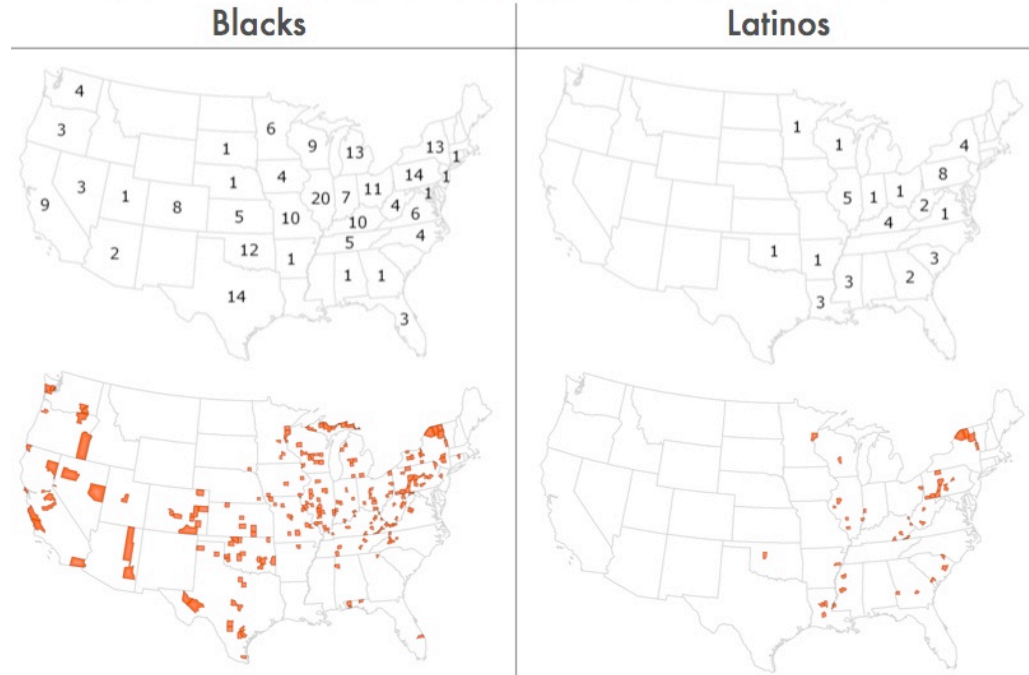
<sup>2</sup> New York State Department of Correctional Services, HUB SYSTEM: Profile of Inmate Population Under Custody on January 1, 2008, at ii, available at [http://www.doccs.ny.gov/Research/Reports/2008/Hub\\_Report\\_2008.pdf](http://www.doccs.ny.gov/Research/Reports/2008/Hub_Report_2008.pdf)

<sup>3</sup> Dana Goldstein, Simone Weichselbaum, Christie Thompson, Eli Hager, Beth Schwartzapfel, Maurice Chammah, Alysia Santo and Nick Tabor, New York Magazine: Daily Intelligencer, *Inside Rikers Island, Through the Eyes of the People Who Live and Work There*, available at <http://nymag.com/daily/intelligencer/2015/06/inside-rikers-island-interviews.html>

<sup>4</sup> Leah Sakala, Breaking Down Mass Incarceration in the 2010 Census: State-by-State Incarceration Rates by Race/Ethnicity, Prison Policy Initiative, May 28, 2014 available at <http://www.prisonpolicy.org/reports/rates.html>

<sup>5</sup> U.S. Department of Justice, Bureau of Justice Statistics, Prison and Jail Inmates at Midyear, 2001, NCJ 191702 (Washington, DC: U.S. Department of Justice, 2002), Table 15.

Maps showing the number and locations of counties where the portion of the county's Black or Latino population was at least 10 times smaller than the portion of the county's incarcerated population that was Black or Latino



**Figure 2.** These maps show where Blacks or Latinos are over-represented by at least 10 times in the prison population compared to the surrounding county. Many of the states without any counties marked on this map are states where counties are less relevant as a unit of analysis (i.e. Massachusetts and Rhode Island) or where the Black or Latino population is very small and therefore excluded from our analysis (i.e. Montana). For Latinos, the over-representation is significant in most states but is less dramatic than for Blacks.

### **Modern requirements of equal representation have created new data users and a need for more accurate data.**

The Census Bureau's practice of tabulating incarcerated people as residents of the prison location not only predates the prison boom; it also predates the modern era of redistricting. The early Censuses were primarily concerned with the relative population of each state for the purposes of apportionment. In the 1960s, however, the Supreme Court's "one person one vote" cases, which require regular population-based redistricting at the state and local level, changed that. And the Census Bureau quickly became *the* data source for redistricting because it had the ability to provide accurate data down to the block level.

But it is precisely this need — accurate block level data — that is most dramatically undermined by the Bureau's current interpretation of the usual residence rule. The Census is using a method that tabulates 1% of our entire adult population — and 6.4% of our Black adult male population — in the wrong location.<sup>6</sup>

And to be clear, the statement that it is the "wrong" location is not a moral judgment subject to the eye of the beholder. The common law rule is that a prison cell is not a

<sup>6</sup> This calculation uses Census 2010 data for the 18+ population for both the incarcerated and total populations.

residence, and the majority of states have explicit constitutional clauses or election law statutes that declare that a prison cell is not a residence.<sup>7</sup>

### **This “prison miscount” creates serious challenges for democracy at most levels of government**

Prison gerrymandering is a problem for all levels of government that contain both a sizable correctional facility and a district form of government. As we will explain below, the problem is most significant in rural districts where a single prison can easily become the majority of a district; but it also creates a consistent misallocation of populations among state legislative districts, and a negative influence on the state-wide public policy decisions that result.

When state legislative district populations are skewed by Census data, for example:

- Seven New York state senate districts drawn after the 2000 Census met minimum population requirements only because they used prison populations as padding.<sup>8</sup>
- In Maryland, one state house district in western Maryland drawn after the 2000 Census drew 18% of its population from a large prison complex.<sup>9</sup> As a result, every four voting residents in this district were granted as much political influence as five residents elsewhere.<sup>10</sup>

The policy and racial justice implications are severe as well, for example:

- Virtually all — 98% — of New York state’s prison cells were located in state senate districts that were disproportionately White, diluting the votes of African-American and Latino voters.<sup>11</sup> Similarly, in Connecticut, 75% of the state’s prison cells were in state house districts that were disproportionately White.<sup>12</sup>

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<sup>7</sup> British common law and virtually all states define residence as the place a person chooses to be without a current intention to go elsewhere. In most states, constitutions and statutes go even further, explicitly declaring that incarceration does not change a residence. *See, e.g.*, Ariz. Const. art. VII, § 3; Colo. Const. art. VII, § 4; Minn. Const. art. VII, § 2; Mo. Const. art. VIII, § 6; Nev. Const. art. II, § 2; N.Y. Const. art. II, § 4; Or. Const. art. II, § 4; Wash. Const. art. VI, § 4; Alaska Stat. § 15.05.020(1) (2011); Cal. Elec. Code § 2025 (2011); Conn. Gen. Stat. § 9-14 (2011); D.C. Code § 1-1001.02(2)(D) (2011); Haw. Rev. Stat. § 11-13(5) (2011); Idaho Code Ann. § 34-405 (2011); Me. Rev. Stat. tit. 21-A, § 112(7) (2011); Mich. Comp. Laws § 168.11 (2011); Miss. Code Ann. § 47-1-63 (2011); Mont. Code Ann. § 13-1-112(2) (2011); N.H. Rev. Stat. Ann. § 654:2-a (2011); N.M. Stat. Ann. § 1-1-7(D) (2011); Pa. Cons. Stat. § 1302(a)(3) (2011); R.I. Gen. Laws § 17-1-3.1 (2011); Tenn. Code Ann. § 2-2-122(7) (2011); Tex. Elec. Code Ann. § 1.015(e) (2011); Utah Code Ann. § 20A-2-101(2)(a), -105(4)(c)(iii) (2011); Vt. Stat. Ann. tit. 17, § 2122 (2011).

<sup>8</sup> Peter Wagner, *Importing Constituents: Prisoners and Political Clout in New York*, Prison Policy Initiative (May 20, 2002), <http://www.prisonpolicy.org/importing/importing.html>.

<sup>9</sup> *Ending Prison-Based Gerrymandering Would Aid the African-American Vote in Maryland*, (Jan. 22, 2010), <http://www.prisonersofthecensus.org/factsheets/md/africanamericans.pdf>.

<sup>10</sup> *See id.*

<sup>11</sup> Peter Wagner, *98% of New York’s Prison Cells Are in Disproportionately White Senate Districts*, (Jan. 17, 2005), <http://www.prisonersofthecensus.org/news/2005/01/17/white-senate-districts/>.

<sup>12</sup> *Ending Prison-Based Gerrymandering Would Aid the African-American and Latino Vote in Connecticut*, (Nov. 17, 2010), [http://www.prisonersofthecensus.org/factsheets/ct/CT\\_AfricanAmericans\\_Latinos.pdf](http://www.prisonersofthecensus.org/factsheets/ct/CT_AfricanAmericans_Latinos.pdf).

- Of the seven New York senate districts discussed above, four of the senators sat on the powerful Codes Committee where they opposed reforming the state's draconian Rockefeller drug laws that boosted the state's prison population.<sup>13</sup> The inflated populations of these senators' districts gave them little incentive to consider or pursue policies that might reduce the number of people sent to prison or the length of time they spend there. One of them, New York state Senator Dale Volker, boasted that he was glad that the almost 9,000 people confined in his district cannot vote because "they would never vote for me."<sup>14</sup>

The impact of prison-based gerrymandering on state legislative districting gets the most attention from state policymakers, but the problem is even more significant in rural counties and cities that contain prisons. Their county board districts and city council districts are smaller than state legislative districts, so a single prison can have a massive effect. The most well-known example is in Anamosa, Iowa, where the state's largest prison constituted 96% of the city's second ward.<sup>15</sup> In 2005, there were no second ward candidates for city election, and the winner won with two write-in votes, one cast by his wife and another by a neighbor.<sup>16</sup> Citizen outcry about the unfairness of granting some residents twenty-five times as much political influence as other voters led Anamosa to change its form of city government.<sup>17</sup>

The extreme example of Anamosa is far from unique. Other examples include:

- Lake County Tennessee drew a district after the 2000 Census "where 88% of the population in County Commissioner District 1 was not local residents, but incarcerated people in the Northwest Correctional Complex."<sup>18</sup> This gave every group of three residents in District 1 as much say in county affairs as twenty-five residents in other districts.<sup>19</sup>
- Half of one city ward in Rome, New York, drawn after the 2000 Census, was incarcerated,<sup>20</sup> and the majority of the clout given to the Chair of the Livingston County, New York Board of Supervisors came from claiming incarcerated people as residents of his town.<sup>21</sup>

<sup>13</sup> Peter Wagner, *Locked Up, But Still Counted: How Prison Populations Distort Democracy*, (Sept. 5, 2008), <http://www.prisonersofthecensus.org/news/2008/09/05/stillcounted/>.

<sup>14</sup> *Id.* (quoting Jonathan Tilove, *Minority Prison Inmates Skew Local Populations as States Redistrict*, Newhouse News Service, Mar. 12, 2002, <http://www.prisonpolicy.org/news/newhousenews031202.html>).

<sup>15</sup> *Enumerating People Living in Group Quarters: Hearing Before the Subcomm. on Info. Pol'y, Census, and Nat'l Archives of the H. Comm. on Oversight and Gov't Reform*, 111th Cong. (2011) (statement of Peter Wagner, Executive Director, Prison Policy Initiative), available at <http://www.prisonersofthecensus.org/news/2010/02/25/fieldhearing/>.

<sup>16</sup> Sam Roberts, *Census Bureau's Counting of Prisoner Benefits Some Rural Voting Districts*, N.Y. Times, Oct. 23, 2008, <http://www.nytimes.com/2008/10/24/us/politics/24census.html>.

<sup>17</sup> *See id.*

<sup>18</sup> Peter Wagner & Aleks Kajstura, *Prison-Based Gerrymandering in Tennessee Counties*, (Sept. 26, 2011), <http://www.prisonersofthecensus.org/news/2011/09/26/tn-memo/>.

<sup>19</sup> *See id.* for more on Lake County and the nine other counties in Tennessee with dramatic instances of prison-based gerrymandering.

<sup>20</sup> Editorial, *Our View: Don't Count Prisoners with Voters*, Utica Observer-Dispatch, Feb. 25, 2010, <http://www.uticaod.com/opinion/x1694766272/Our-view-Don-t-count-prisoners-with-voters>.

<sup>21</sup> *Prison-Based Gerrymandering in Livingston County*, (June 16, 2010), <http://www.prisonersofthecensus.org/factsheets/ny/livingston.pdf>.

- Wisconsin has a number of county and municipal districts where prisons constitute the majority of individual districts. The Waupun City Council drew a district after the 2000 Census that was 79% incarcerated,<sup>22</sup> and Juneau County drew a district after the 2010 Census that was 80% incarcerated.<sup>23</sup>
- The most troubling example may be from Somerset County Maryland where prison-based gerrymandering made it impossible to elect an African-American.

Somerset County, which until 2010 had never elected an African-American to county government, settled a voting rights act lawsuit in the 1980s by agreeing to create one district where African-Americans could elect the candidate of their choice. Unfortunately, a prison was built and the 1990 Census was taken shortly after the first election, leaving a small African-American vote-eligible population in the district. This made it difficult for residents of the district to field strong candidates and for voters to elect an African-American Commissioner. An effective African-American district could have been drawn if the prison population had not been included in the population count.<sup>24</sup>

### **Ending prison gerrymandering would benefit most of the country**

Because prison gerrymandering is an issue unlike most Census controversies that operate like a zero-sum game with clear winners and losers, many of the people who benefit in one way from prison gerrymandering lose in another. For example, someone who lives in the state house district with the largest prison might have their votes diluted in their state senate or county commission district because they do not also live in the respective state senate or county commission district with the largest prison.

We've calculated that of the 19 million people in New York state, only 15,300 people simultaneously benefit from prison gerrymandering in their state senate district, in their state assembly district, and in their county legislative district.<sup>25</sup> That's less than 0.08% of the state's residents, and of course all 19 million people in New York State benefit when the democratic process improves. And New York isn't alone. We found

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<sup>22</sup> *Prison-Based Gerrymandering in the City of Waupun, WI*, (Mar. 16, 2011), [http://www.prisonersofthecensus.org/factsheets/wi/City\\_of\\_Waupun\\_WI.pdf](http://www.prisonersofthecensus.org/factsheets/wi/City_of_Waupun_WI.pdf); see also John Hejduk & Peter Wagner, *Importing Constituents: Prisoners and Political Clout in Wisconsin*, (Mar. 2008), <http://www.prisonersofthecensus.org/wisconsin/local.html>.

<sup>23</sup> See Peter Wagner, *Wisconsin Sees Dramatic Prison-Based Gerrymandering in New State, County, City Districts*, (July 18, 2011), <http://www.prisonersofthecensus.org/news/2011/07/18/wi-districts/>, for a general treatment of county redistricting in Wisconsin after the 2010 Census. Our findings in Juneau have not been published yet at the time of this writing.

<sup>24</sup> Brief of the Howard University School of Law Civil Rights Clinic et al. as Amici Curiae Supporting Respondents at 8–9, *Fletcher v. Lamone*, No. RWT-11cv3220 (D. Md. Dec. 23, 2011) (citing “*Maryland Bill*” Podcast Episode #2, (May 27, 2010), <http://www.prisonersofthecensus.org/news/2010/05/27/podcast2/>; *Our View: Fairer Election Districts Ahead*, Daily Times, Apr. 5, 2010, [http://www.prisonpolicy.org/news/Delmarva\\_Daily\\_Times\\_MD\\_4\\_5\\_10.pdf](http://www.prisonpolicy.org/news/Delmarva_Daily_Times_MD_4_5_10.pdf); ACLU of Maryland & Somerset County NAACP, *Semper Eadem: “Always the Same”?* (2009), available at <http://www.aclu-md.org/aPress/Press2009/FinalReportwApp.pdf>), available at [http://www.prisonersofthecensus.org/fletcher/Final\\_Fletcher\\_amicus\\_with\\_affidavit\\_and\\_service.pdf](http://www.prisonersofthecensus.org/fletcher/Final_Fletcher_amicus_with_affidavit_and_service.pdf).

<sup>25</sup> Letter from Peter Wagner, Executive Director, Prison Policy Initiative to John Thompson, Director, U.S. Census Bureau, November 6, 2013, on file with the Prison Policy Initiative.

the same thing when we analyzed to Rhode Island's districts. Out of the entire state, only 112 people (0.01% of the state) simultaneously live in the state senate district and the state house district with the largest prison population.<sup>26</sup> Everyone else in the state has their vote diluted in one or both chambers as a result of prison gerrymandering.

For these reasons, it should be no surprise that ending prison gerrymandering is popular. Currently, at least 1 in 5 Americans live in a state or local government that has ended prison gerrymandering. New York, Maryland, Delaware and California have passed legislation to end prison gerrymandering statewide. The statutes of Colorado<sup>27</sup>, Michigan<sup>28</sup>, and New Jersey<sup>29</sup> command some or all their local governments to avoid prison gerrymandering. In Mississippi, the Attorney General instructs counties to avoid prison gerrymandering, while also declaring that the Census Bureau is wrong and that the Bureau should have counted incarcerated people at home:

Inmates under the jurisdiction of the Mississippi Department of Corrections ... are not deemed "residents" of that county or locality, as incarceration cannot be viewed as a voluntary abandonment of residency in one locale in favor of residency in the facility or jail. **For purposes of the Census, these individuals should have been counted in their actual place of residence.** Such inmates should not be used in determining the population of county supervisor districts for redistricting purposes by virtue of their temporary presence in a detention facility or jail in the county, unless their actual place of residence is also in the county.<sup>30</sup>

Many counties and other local governments that choose to avoid prison gerrymandering on their own must jump through considerable hoops to do so. To be sure, your decision to publish the Advance Group Quarters Summary File as part of the 2010 Census was a tremendous benefit to these jurisdictions, and the fact that you were able to add this product to the design of the 2010 Census *and* publish this file several weeks earlier than the Bureau had told people to expect it were all improvements that cannot be understated. Further, the Director's announcement that in 2020 the Group Quarters Summary File will be included within the PL94-171 Redistricting data will be a great aid in terms of visibility, timeliness and ease of use.

### **The Census Bureau cannot leave fixing the prison miscount to the states.**

However, all of this interest and activity in ending prison gerrymandering does not mean that the Census Bureau can leave this decision to the data users. As you know, the Massachusetts legislature concluded that that state's constitution prohibits it from

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<sup>26</sup> These 112 people also live in the city council ward with the largest prison population, Cranston Ward 6. For more on these Rhode Island calculations and some maps, see Peter Wagner, How many people benefit from ending prison gerrymandering?, Prison Policy Initiative, August 21, 2014, available at: <http://www.prisonersofthecensus.org/news/2014/08/21/how-many/>

<sup>27</sup> Colorado Revised Statutes §30-10-306.7(5)(a) applying to counties.

<sup>28</sup> Mich. Comp. Laws § 117.27a (5) applying to cities and Mich. Comp. Laws § 46.404(g) applying to counties.

<sup>29</sup> N.J. Stat. Ann. § 18A:13-8; Board v. New Jersey, 372 N.J. Super. 341, 858 A.2d 576 (2004) applying to school boards of nine or more members.

<sup>30</sup> Opinion No. 2002-0060; 2002 WL 321998 (Miss. A.G.) Emphasis added.



passing legislation ending prison gerrymandering. For that reason, the legislature sent you an earnest bipartisan resolution calling on you to count incarcerated people at home in the next census.<sup>31</sup>

These ad hoc solutions are even more out of reach for local governments. Many of the most dramatic instances of prison gerrymandering are concentrated in just a handful of states like Minnesota, Tennessee, and Wisconsin, where state constitutions or state law appear to prohibit the cities and counties from adjusting the Bureau's data when drawing their districts without regard to the absurd and undemocratic results. For example, the Minnesota statutes declare "When used in reference to population, 'population' and 'inhabitants' mean that shown by the last preceding federal decennial census"<sup>32</sup> This results in cities like Waseca drawing city council districts that are 34.5% incarcerated, giving every 2 residents who live near the prison the political influence on city council of 3 residents in other parts of the city.

To address all of these problems experienced by redistricting data users in state and local governments, the only viable solution is for the Census Bureau to update its interpretation of the residence rule for incarcerated people and count this growing part of our population in the right place — at home.

### **There is national consensus for ending prison gerrymandering**

Over the last fourteen years, a strong national consensus has evolved in opposition to prison gerrymandering. Beyond the actions of state officials covered elsewhere in this letter, the civil rights and good governments groups are speaking with one voice on this issue and the relevant scientific bodies have shown their support.

In 2013, more than 200 civil rights, voting rights, and criminal justice organizations sent the Bureau a letter<sup>33</sup> asking you to seize a timely opportunity to research alternative ways to count incarcerated people in the decennial Census. In 2014, ending prison gerrymandering was principle #3 in the 10 Redistricting Principles for a More Perfect Union endorsed by 16 civil rights and democracy organizations.<sup>34</sup>

The National Black Caucus of State Legislators declared in 2010 that:

“... THEREFORE BE IT RESOLVED, that the National Black Caucus of State Legislators (NBCSL) believes that the Census Bureau should count incarcerated individuals at their addresses of residence, rather than the address of the prison during the 2020 and all future decennial Censuses;

“BE IT FURTHER RESOLVED, that until the Census Bureau counts incarcerated individuals at their actual residential addresses, the NBCSL

<sup>31</sup> A copy of the resolution is at <http://www.prisonersofthecensus.org/resolutions/MA-resolution-081414.pdf>

<sup>32</sup> Minn. Stat. Ann. § 645.44(8)

<sup>33</sup> Available at <http://www.prisonersofthecensus.org/letters/feb2013.html>

<sup>34</sup> Available at <http://www.commoncause.org/issues/voting-and-elections/redistricting/redistricting-principles.html>

encourages states to enact legislation modeled after the Delaware, Maryland, and New York laws....”<sup>35</sup>

The NAACP has had convention resolutions calling for an end to prison gerrymandering for four consecutive years from 2008 to 2010: and the 2010 resolution concluded:

“THEREFORE, BE IT RESOLVED, that the NAACP reaffirms the 2009 resolution on ending prison-based gerrymandering; and

“BE IT FURTHER RESOLVED, the NAACP will continue to advocate to the United States Congress, the United States Department of Commerce and to the public that the Census count incarcerated people as residents of their last home address; and [...]

“BE IT FURTHER RESOLVED, that the NAACP concludes that until the Census Bureau counts incarcerated people as residents of their homes, the fundamental principle of one person one vote” would be best satisfied if redistricting committees refused to use prison counts to mask population shortfalls in districts that contain prisons; and

“BE IT FINALLY RESOLVED, that the NAACP advocate that the prison population census count not be used in any legislative district at the local, state and federal level.”<sup>36</sup>

Finally, the Census Bureau’s own advisors on the National Research Council of the National Academies concluded in 2006 that “[t]he evidence of political inequities in redistricting that can arise due to the counting of prisoners at the prison location is compelling”<sup>37</sup> and called for you to take immediate steps to develop a solution. Your own appointed Advisory Committees repeatedly urged you to take steps to end prison gerrymandering with recommendations in 2003, 2009, 2010, and 2011.<sup>38</sup>

### **Our research shows that (contrary to common assumptions) the prison miscount does not affect three key uses of Census data**

After spending many pages on the impact seen from the Census Bureau’s outdated usual residence rule for incarcerated people, we wanted to share three places where some might expect to see an impact but where our research suggests there was none:

1. Apportionment is unlikely to be impacted. In general, apportionment is very unlikely to be affected by the current rule — and by extension — any change in it because most incarcerated people do not cross state lines. Only a few state prison systems send incarcerated people to other states and those arrangements tend to be relatively temporary and difficult to predict, so there is no long-term expected impact from these cross-state transfers. While we

<sup>35</sup> Available at <http://www.nbcsl.org/public-policy/resolutions/item/75-law-justice-and-ethics-resolution-lje-11-03.html>

<sup>36</sup> Available at [http://www.prisonersofthecensus.org/resolutions/NAACP\\_2010.html](http://www.prisonersofthecensus.org/resolutions/NAACP_2010.html)

<sup>37</sup> Available at <http://www.nap.edu/catalog/11727/once-only-once-and-in-the-right-place-residence-rules>

<sup>38</sup> Excerpts and copies of the resolution text available at <http://www.prisonersofthecensus.org/resolutions/>

assume that most people in the federal prison system come from other states, the fact that federal prisons exist in about 37 states means that the net effect is going to be quite small. While it is indeed possible that a change to the usual residence rule for incarcerated people — or any group for that matter — could change apportionment, it is extremely unlikely that the rule for incarcerated people would change apportionment. (And our analysis of the 2000 and 2010 apportionment suggests that it has not in the past.)

2. Congressional redistricting is not affected. Congressional districts are too large (at about 700,000 people) to be significantly impacted by a large prison or even the typical cluster<sup>39</sup> of large prisons. As illustrated above, the impact of prison gerrymandering is inversely proportional to the ideal population size of the district. So while a cluster of large prisons typically has a negligible effect on a Congressional district of 700,000 people, the impact of a single 1,000-person prison can be massive in a county commission district of only 1,200 people.
3. Funding formulas are not affected. While Census data is important to many funding formulas, prison populations have very little impact. First, most federal funding formulas are block grants to states for things like Medicaid reimbursement and highways and because most incarcerated people do not cross state lines, there is no impact. Most other federal and state funding formulas are more complex than straight headcount distributions, instead using a sophisticated mix of data. For example, school aid often uses for the population *portion* of the formula not the total population but factors like the number of school age children or the number of pupils enrolled. Similarly, formulas for programs focused on poverty typically use household statistics (which do not include the incarcerated people) or poverty statistics (which are based on household income). The only notable exceptions we've seen are in very small funds destined for rural areas, like programs for impoverished Appalachian communities distributed by the Appalachian Regional Commission, whose formula allows prison hosting communities to get a very tiny additional share of money that probably should have gone to similarly situated rural Appalachian communities without prisons. But in no case were urban communities shortchanged by this small flaw in the way money intended for rural Appalachia was distributed to rural Appalachia. In short, the current rule has not caused a substantial unjustified formula-fund enrichment of rural prison-hosting areas nor has it caused an unjustified reduction in formula funding for urban areas.

## Conclusion

We understand that conducting the Census is an important, complicated, and difficult task which underpins the very core of our democracy, and we applaud the Bureau's continual efforts to improve the quality and utility of Census data.

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<sup>39</sup> The only notable exception is California, where the unique cluster of prisons in the central valley in 2010 created a Congressional district that was 5.7% incarcerated.

We believe that the next step forward for the Census Bureau is to update the usual residence rule for incarcerated people. We hope the Bureau concludes that the 2010 Census should be the last Census in our history to count more than 2 million people in the wrong location. When evaluating the 2010 Census and thinking about what changes should be made for 2020, we urge the Bureau to count incarcerated people at their home addresses.

If my organization can answer any questions or be of any assistance to you in your work, please do not hesitate to contact us.

Sincerely,

Peter Wagner  
Executive Director

Enclosure:

*The Racial Geography of Mass Incarceration*

# The Racial Geography of Mass Incarceration

by [Peter Wagner](#) and [Daniel Kopf](#)

July, 2015

## Key findings

- Entirely separate from the more commonly discussed problem of racial disparities in who goes to prison, this data addresses a distressing racial and ethnic disparity in where prisons have been built.
- Stark racial and ethnic disparities exist between incarcerated people and the people in the county outside the prison's walls.
- The transfer of Black and Latino incarcerated people to communities very different than their own is a national problem not confined to select states.
- Hundreds of counties have a 10-to-1 “ratio of over-representation” between incarcerated Blacks and Blacks in the surrounding county — meaning that the portion of the prison that is Black is at least 10 times larger than the portion of the surrounding county that is Black.

## Introduction

The racial disparities underlying the United States’ record growth in imprisonment are well documented, as is the fact that the prison construction boom was disproportionately a rural prison construction boom. While these two characteristics have been studied separately, there has been, until now, no national effort to analyze each state’s decision to engage in mass incarceration through a racial geography lens.

This report fills a critical gap in understanding the mass incarceration phenomenon: it offers a way to quantify the degree to which in each state mass incarceration is about sending Blacks and Latinos to communities with very different racial/ethnic make-ups than their own. We use data from the 2010 Census to compare the race and ethnicity of incarcerated people to that of the people in the surrounding county, finding that, for many counties, the racial and ethnic make-up of these populations is very different.

This analysis addresses the degree to which each state’s use of the prison is about transferring people of color to communities that are very different from the communities that people in prison come from. This data does not address the bias in policing or sentencing found in individual counties; instead it reflects each state’s political decision to build prisons in particular locations.

We anticipate this analysis will be most useful to answer two questions:

1. Why do some states struggle to hire sufficient Black and Latino correctional staff?
2. To what degree does prison gerrymandering — the practice of using U.S. Census counts of incarcerated people as residents of the prison location for legislative districting purposes — have a disproportionate racial impact in particular states?

In addition, definitively showing that the people incarcerated in some states and counties are very different demographically from the surrounding community is powerful evidence that the people incarcerated there are from somewhere else.<sup>1</sup> This has immediate and profound implications for a number of issues from prison gerrymandering to the need for programs that make it easier for families to visit incarcerated loved ones.

### **The racial geography of mass incarceration for Blacks**

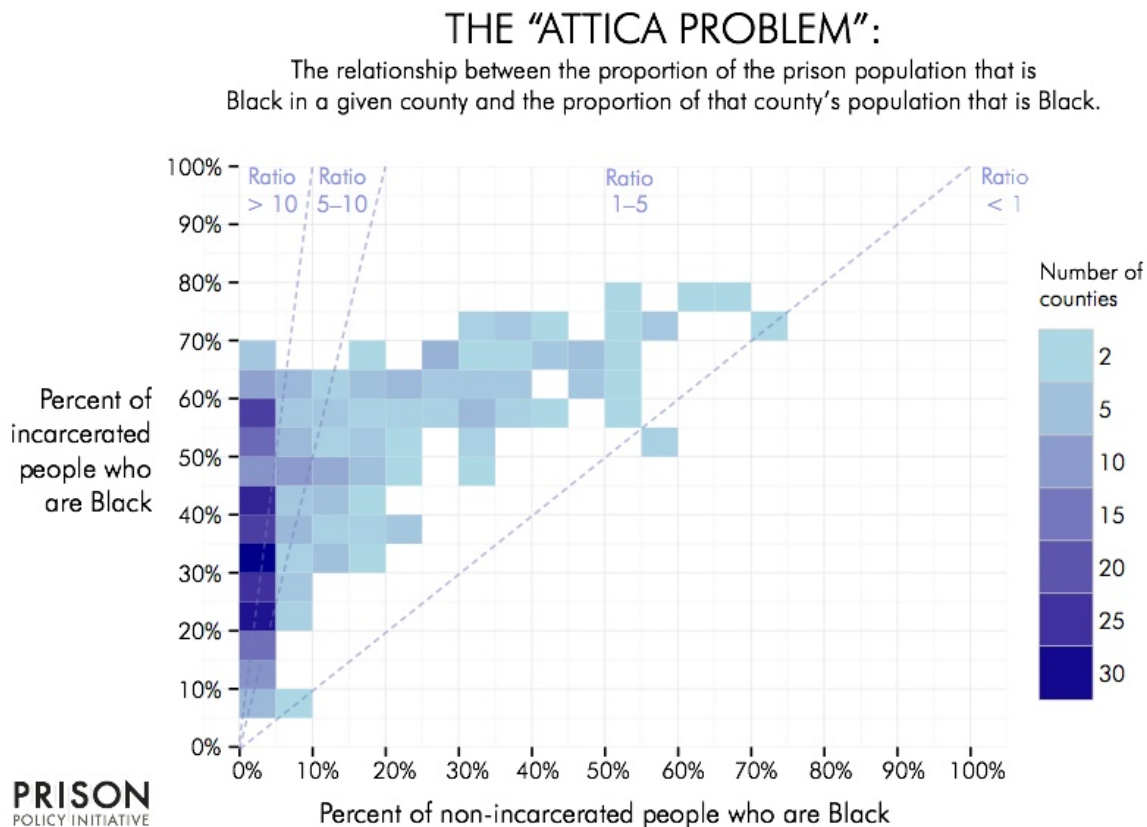
Blacks are incarcerated at a rate about 5 times higher than whites, but prisons are disproportionately located in majority-white areas. This combination has tremendous implications for the prison system's ability to hire appropriate numbers of Black staff, and it gives the problem of prison gerrymandering a distinct veneer of racial discrimination.<sup>2</sup>

Policymakers have been aware of the problem of racial disparities between staff and incarcerated people at least since the infamous Attica prison rebellion in 1971. Incarcerated people seized the prison, held it for four days, and invited the media in to document their grievances before the state police assaulted the prison, killing 43, all filmed on national television. The striking racial imbalance between the incarcerated people and the guards garnered national attention: the people incarcerated were 63% Black or Latino but at that time there were no Blacks and only one Latino serving as guards. Increasing staff diversity was widely considered important, but progress was very slow because Attica and the hundreds of new prisons built in the subsequent decades were built in rural, disproportionately White, areas of states.

Our national analysis of counties finds that Wyoming County — where Attica and another large New York state prison are located — is not alone. We find that in 2010 there were 161 counties spread across 31 states where the incarcerated Black population outnumbers the number of free Blacks.<sup>3</sup>

We find a substantial number of counties where the incarcerated populations are largely Black but where Blacks are only a tiny portion of the county's non-

largely Black out where Blacks are only a tiny portion of the county's non-incarcerated population:



**Figure 1.** This chart shows that in many counties Black people in prison are overrepresented compared to the portion of Black people in the free population. Notably, many of these counties are concentrated in the far left of the graph; where Blacks make up 20% to 60% of the prison populations yet less than 5% of the free population.

Analysis of the graph reveals two conclusions:

1. The vast majority of counties are in the top left half of the graph, all reflecting that the prisons have proportionately larger Black populations than the surrounding county does.
2. There is a huge concentration of counties with prisons along the left edge of the graph, reflecting that many counties have only very small Black populations while their prisons have much larger Black populations.

To further quantify this distribution, we calculated the degree of racial difference between the incarcerated and non-incarcerated populations in each county. We calculated the ratio of the percentage of each county's incarcerated population that is Black to the percentage of each county's non-incarcerated population that is Black. Higher numbers mean a much larger difference between the two populations. In the 15 counties where the ratio is less than 1, the county's non-incarcerated Black population is proportionately larger than the incarcerated Black population in the county. But the table below quantifies what is seen in the above chart: most counties have a ratio over 1 and 208 counties have ratios of over 10. A ratio of at least 10

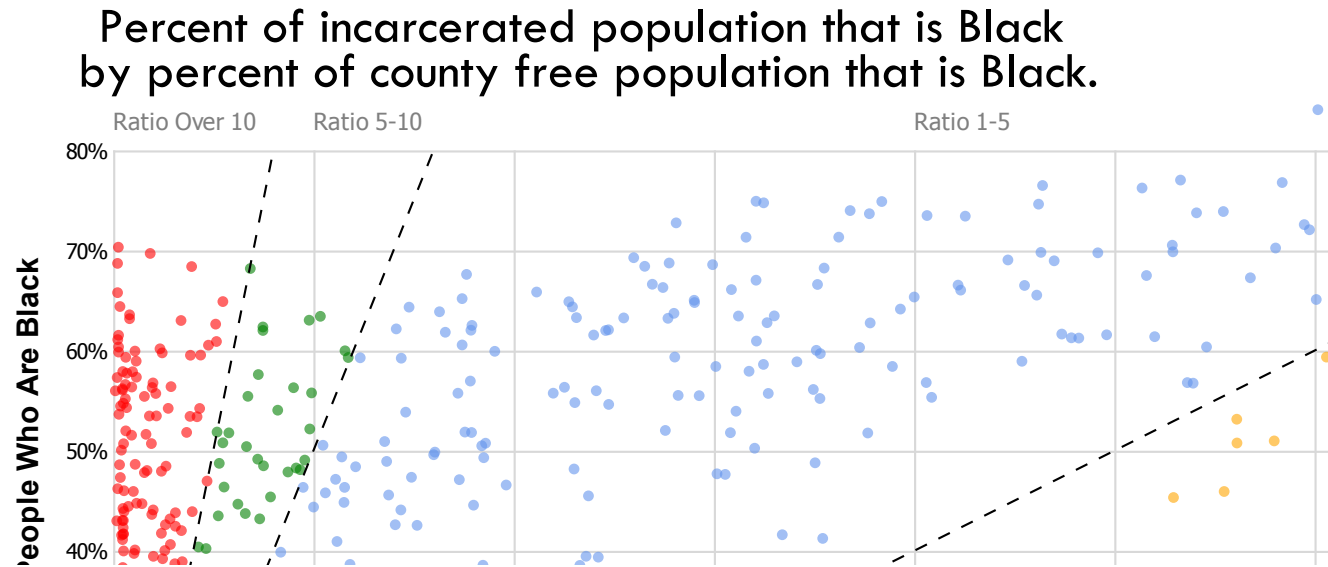
have a ratio over 1, and 208 counties have ratios of over 10. A ratio of at least 10 means that the portion of the prison that is Black is at least 10 times larger than the portion of the surrounding county that is Black. For example, Martin County, Kentucky has a ratio of 529, because the 884 incarcerated Blacks make up 56% of the incarcerated population but the 12 Blacks freely living in the county make up only about 0.1% of the county's free population.

**Figure 2.** Number of counties by ratio of Black over-representation. The 34 states containing counties with ratios over 10 are: Alabama (1), Arizona (2), Arkansas (1), California (9), Colorado (8), Connecticut (1), Florida (3), Georgia (1), Illinois (20), Indiana (7), Iowa (4), Kansas (5), Kentucky (10), Maryland (1), Michigan (13), Minnesota (6), Missouri (10), Nebraska (1), Nevada (3), New Jersey (1), New York (13), North Carolina (4), Ohio (11), Oklahoma (12), Oregon (3), Pennsylvania (14), South Dakota (1), Tennessee (5), Texas (14), Utah (1), Virginia (6), Washington (4), West Virginia (4), and Wisconsin (9).

Ratio Category	Number of counties	Number of states containing those counties
0-1	15	8
1.01-5	194	26
5.01-10	55	23
More than 10	208	34

It is these high-ratio counties — and clusters of high-ratio counties — that make prison gerrymandering such a significant problem for racial justice. This large scale census inaccuracy labels these counties as diverse when they are anything but. When state legislatures use that flawed data to draw legislative districts, they transfer Black political clout to districts where Blacks have little to no voice.

To allow readers and other researchers to explore the details of individual counties, we created this interactive version that allows for looking up individual counties and their respective incarcerated and non-incarcerated Black populations:





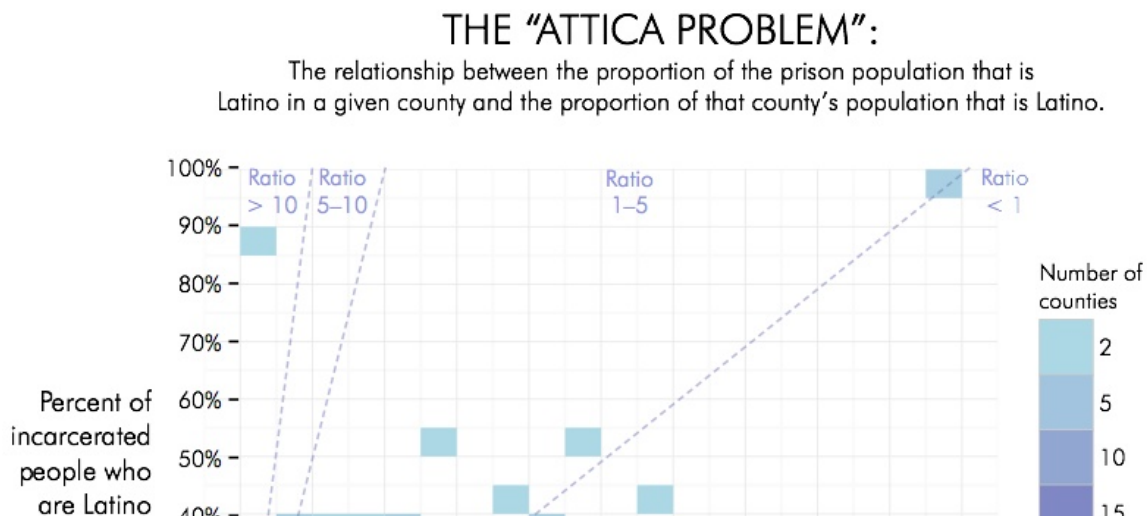


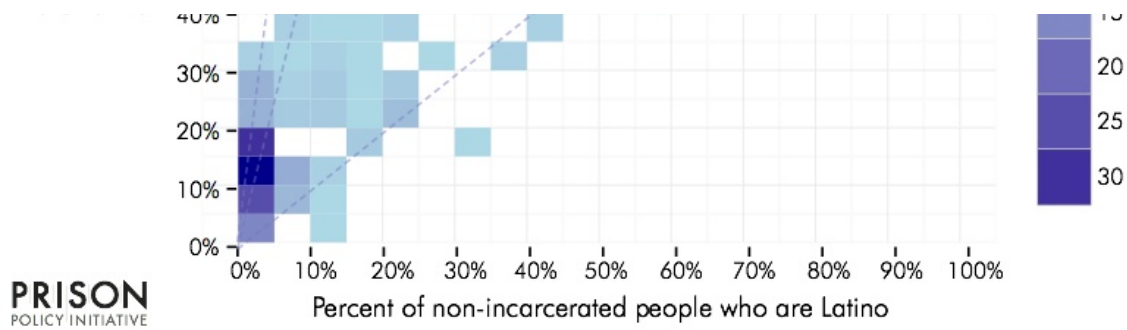
Kentucky (15)	24.2
Indiana (11)	23.2
California (12)	19.8
Missouri (16)	14.2
Oklahoma (17)	13.4
Texas (50)	4.5
Florida (30)	4.4
Virginia (24)	3.0
Alabama (10)	2.6
Louisiana (24)	2.2
North Carolina (22)	2.0
Georgia (41)	2.0
South Carolina (11)	1.4
Mississippi (17)	1.4

## The racial geography of mass incarceration for Latinos

Latinos are incarcerated at a rate about 2 times higher than non-Latino whites, but prisons are disproportionately located in non-Latino areas. This combination has tremendous implications for the prison system's ability to hire appropriate numbers of Latino staff, and it gives the problem of prison gerrymandering a distinct veneer of ethnic discrimination.<sup>4</sup>

We find that in 2010 there were 20 counties spread across 10 states where the Latino population that is incarcerated outnumbered those who are free.<sup>10</sup> We also found a substantial number of counties where the incarcerated populations are largely Latino but where Latinos are only a very small portion of the county's non-incarcerated population:





**Figure 5.** This chart shows that in many counties Latino people in prison are overrepresented compared to the portion of Latino people in the free population. (The outliers on the top right are a Municipality (county) in Puerto Rico and two in Texas, and the outlier counties on the top left are Stewart County, Georgia and Adams County, Mississippi, both of which host large federal immigration detention facilities.

Analysis of the graph reveals two conclusions:

1. The vast majority of counties are in the top left half of the graph, reflecting that the prisons have proportionately larger Latino populations than the surrounding county does.
2. There is a huge concentration of counties with prisons along the left edge of the graph, reflecting that many counties have only very small Latino populations while their prisons have much larger Latino populations.

To further quantify this distribution, we calculated the degree of ethnic difference between the incarcerated and non-incarcerated populations in each county. We calculated the ratio of the percentage of each county's incarcerated population that is Latino to the percentage of each county's non-incarcerated population that is Latino. Higher numbers mean a much larger difference between the two populations. In the 50 counties where the ratio is less than 1, the county's non-incarcerated Latino population is proportionately larger than the incarcerated Latino population in the county. But the table below quantifies what is seen in the above chart: most counties in this study have a ratio over 1, and there are many counties such as Georgia's Stewart County, Illinois' Brown County, or West Virginia's Gilmer County where virtually the entire Latino population is incarcerated.

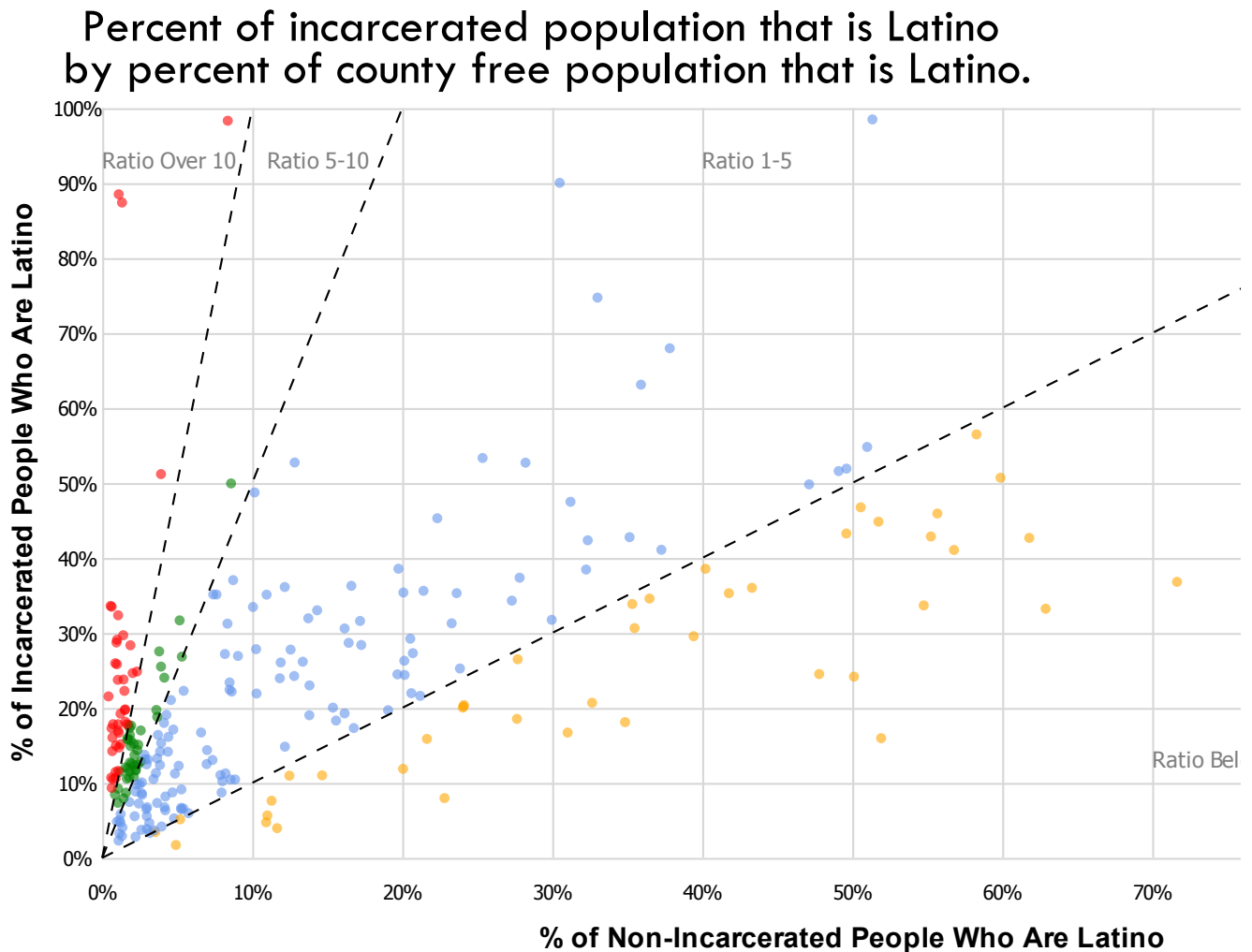
**Figure 6.** Number of counties by ratio of Latino over-representation. The 16 states containing counties with ratios over 10 are: Arkansas (1), Georgia (2), Illinois (5), Indiana (1), Kentucky (4), Louisiana (3), Minnesota (1), Mississippi (3), New York (4), Ohio (1), Oklahoma (1), Pennsylvania (8), South Carolina (3), Virginia (1), West Virginia (2), and Wisconsin (1).

Ratio Category	Number of counties	Number of states containing those counties
0-1	50	17
1.01-5	141	31

5.01-10	39	16
Over 10	41	16

It is these high-ratio counties — and clusters of high-ratio counties — that make prison gerrymandering such a significant problem for ethnic justice. This large scale census inaccuracy labels these counties as diverse when they are anything but. When state legislatures use that flawed data to draw legislative districts, they transfer Latino political clout to districts where Latinos have little to no voice.

To allow readers and other researchers to explore the details of individual counties, we created this interactive version that allows for looking up individual counties and their respective incarcerated and non-incarcerated Latino populations.



**Figure 7.** This interactive chart shows the percentage of each county's incarcerated and free populations that are Latino. Click on a dot for the name of the county and the total numbers.

To explore whether the counties with the most dramatic ethnic disparities between the prison and free populations are concentrated in particular states, we calculated the

median ratio of all our analyzed counties by state. We found that Latinos are more likely to be locked up in communities different than their homes in states such as Pennsylvania or New York, and least likely in states such as California:

**Figure 8.** Ranking of states by greatest median disparity between incarcerated Latinos and non-incarcerated Latinos. This table only includes states that had at least 10 analyzed counties. (For the complete calculations for all states, as well as data on the average and 5th, 25th, 75th and 95th percentiles, see the Latino Percentiles appendix table.) And for an alternative way to approach this idea of ranking states, see the incarcerated in disproportionately white counties appendix table. For the raw data behind this analysis, see methodology and Appendix A: Counties.

**State (Number of Counties Meeting Filters) Median Ratio of Counties**

Pennsylvania (14)	12.5
New York (16)	7.6
Illinois (20)	7.0
Georgia (10)	3.4
Florida (26)	2.2
Texas (59)	1.2
California (12)	1.2

## Conclusion

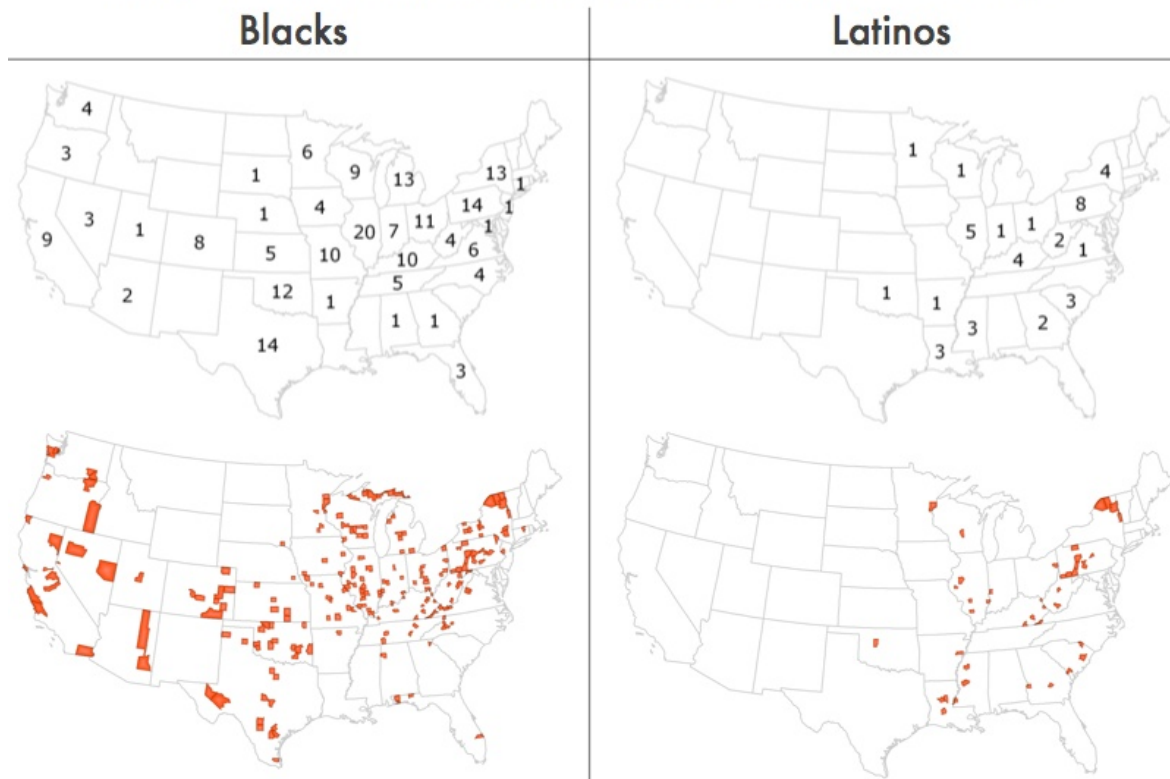
One of the defining characteristics of mass incarceration in the United States is the racial disparity in who goes to prison. Less discussed but just as important is the shocking racial disparity in where those prisons are built.

Sadly, as Rachel Gandy recently reviewed in her analysis of the racial and ethnic disparities between incarcerated people and the people who staff the prisons, the fact that building prisons in rural areas makes it difficult to recruit appropriate numbers of Black and Latino staff has been well known — and entirely ignored — since long before the prison boom began.

This report reviews the magnitude of the gulf between the incarcerated population and the surrounding counties; finding 161 counties where incarcerated Blacks outnumber free Blacks, and 20 counties where incarcerated Latinos outnumber free Latinos. In many counties, the disparity is particularly stark. We found 208 counties where the portion of the county that was Black was at least 10 times smaller than the portion of the prison that was Black. For Latinos, we found 41 counties where the portion of the county that was Latino was at least 10 times smaller than the portion of the prison that was Latino. These counties are spread throughout a majority of the states:

Maps showing the number and locations of counties where the portion of the county's

Black or Latino population was at least 10 times smaller than  
the portion of the county's incarcerated population that was Black or Latino



**Figure 9.** These maps shows where Blacks or Latinos are over-represented at least 10 times in the prison population compared to the surrounding county. Many of the states without any counties marked on this map are states where counties are less relevant as a unit of analysis (ie. Massachusetts and Rhode Island) or where the Black or Latino population is very small and therefore excluded from our analysis (ie. Montana). For Latinos, the over-representation is significant in most states but is less dramatic than for Blacks.

In short, one of the reasons many states struggle to hire sufficient numbers of Black and Latino staff is because the prisons themselves were built in places that Blacks and Latinos do not live.

But this large-scale transfer of Black and Latino people to areas demographically very different than their homes has even larger effects thanks to a unique quirk in the federal Census that counts incarcerated people as if they were willing residents of the county that contains the correctional facility for redistricting purposes.

The racial inequities that result from the practice of prison gerrymandering have been well documented in states like New York and Wisconsin, but as this report makes clear, they are not alone. The transfer of Black and Latino incarcerated people to communities very different than their own is a national problem with implications for prison gerrymandering as well as family visitation policies and reentry.

## V. About the Prison Policy Initiative and the authors

The non-profit, non-partisan Prison Policy Initiative produces cutting edge research to expose the broader harm of mass criminalization, and then sparks advocacy campaigns to create a more just society. In 2002, the organization launched the national movement against prison gerrymandering with the publication of Importing Constituents: Prisoners and Political Clout in New York addressing how using Census Bureau counts of incarcerated people as residents of the prison location diluted the votes of state residents who did not live next to prisons in violation of the state constitutional definition of residence.

Peter Wagner is an attorney and Executive Director of the Prison Policy Initiative.

Daniel Kopf is a data scientist in California who volunteers with the Prison Policy Initiative through our Young Professionals Network. He has a Masters in Economics from the London School of Economics.

## VI. Methodology

This goal of this report was to quantify the magnitude of the difference of the racial and ethnic makeup between the people incarcerated in a given county and the actual residents of that county.

For this data, we took advantage of a unique quirk in Census Bureau methodology that counts incarcerated people as residents of the county that contains the correctional facilities.

### Filters:

While we make all of our data available in an appendix, we applied two filters to the county graphs and tables above to remove from the data what we considered noise:

- Counties where the percentage of the total population that was incarcerated was less than 1.5%. The Prison Policy Initiative discovered for our 2004 report, Too big to ignore: How counting people in prisons distorted Census 2000 that this was an effective filter to remove counties that contained very large jails but no significant state or federal prisons. We wanted to separate out jails because jails tend to confine people for short periods very close to home so these facilities will have much smaller and much less relevant disparities between the facility and the surrounding county. This initial filtering process reduced the number of analyzed counties to 539. (Note the unit of analysis in this analysis was counties, not facilities. We estimate that these counties contained 1,037 prisons.<sup>5</sup>)
- Our analyses of Black disparities remove any county where there were less

than 100 incarcerated Blacks, and we used a similar filter in the Latino disparities section. In both cases, we wanted to avoid highlighting counties with small populations of non-incarcerated people of color and only slightly larger numbers of incarcerated people of color. While this analysis removes many counties from our analysis — and in particular removes many counties in western states where the Black population is relatively small — it allows us to clearly show that there is a very large number of counties where substantial numbers of people of color are being moved by the prison system to communities very different from their homes.

Additionally, in order to make the distribution pattern in [figures 1](#) and [5](#) clear, we chose not to show the handful of counties where there was only 1 county in that particular “bin”. These handful of outliers were generally the product of unique facilities, such as a private federal immigration prison that was [92% Latino](#) in majority-Black Adams County, Mississippi.

## On race and ethnicity definitions

For this project we used the Census Bureau’s conception of race and ethnicity that has two main characteristics:

- Hispanic/Latino origin is an ethnicity separate from race; so people may or may not be Hispanic/Latino in addition to being Black, White, Asian, etc.
- People may be of more than one race, of an “other” race, or of a combination of an “other” race with one or more other races.

The resulting number of possible combinations is quite high<sup>6</sup>, but as the Census Bureau publishes very few data tables that allow one to easily access the race and ethnicity of the incarcerated population, the choices available for use were actually quite limited. We used data that provided for 9 combinations, of which we used only 3 (marked in bold):

- White alone
- **Black alone**<sup>7</sup>
- American Indian or Alaska Native alone
- Asian alone
- Native Hawaiian or other Pacific Islander alone
- Some other race alone
- Two or more races
- **Hispanic or Latinos**<sup>8</sup>
- **White alone not Hispanic or Latino**<sup>9</sup>

Limited in this way by the types of data available for the incarcerated population, we chose to use Census tables that reflected the non-incarcerated population in exactly



the same way.

## Data sources

We used the following data tables from the U.S. Census in our analysis:

- Population: 2010 Census, Summary File 1, Table P1.
- White population (White alone non-Hispanic population): 2010 Census, Summary File 1, Table P5.
- Black population (Black alone population): 2010 Census, Summary File 1, Table P3.
- Hispanic/Latino population: 2010 Census, Summary File 1, Table P4.
- Incarcerated population: 2010 Census, Summary File 1, Table P42.
- Incarcerated White population (White alone, not-Hispanic): 2010 Census, Summary File 1, Table PCT20I.
- Incarcerated Black population (Black alone): 2010 Census, Summary File 1, Table PCT20B.
- Incarcerated Hispanic/Latino population: 2010 Census, Summary File 1, Table PCT20H.

For the non-incarcerated populations, we simply subtracted the incarcerated populations from the total populations of the same race/ethnicity groupings.

For the ratios, we simply found the portion of the incarcerated population that was of a given race or ethnicity and divided this by the portion of a county that was of a given race or ethnicity. For example, if Black people made up of 20% of the incarcerated population, and 40% of the non-incarcerated population. The ratio of over-representation of Black people in prison would be 0.5. By contrast, if Black people made up of 80% of the incarcerated population, and 20% of the non-incarcerated population, the ratio of over-representation of Black people in prison would be 4. Recognizing that other researchers may have alternative ideas on the best way to rank and filter counties and states, we've made [all of this county-level data available](#) so that others may use this data in new ways.

## Recommended readings

This report is far from the first or last word on the topic of the political, racial and economic geography of mass incarceration. Some of our favorite articles on these topics are:

- William Nagel, *The New Red Barn: A Critical Look at the Modern American Prison* (New York: The American Foundation, Inc., 1973).
- Calvin Beale, "Prisons, Population, and Jobs in Nonmetro America," *Rural Development Perspectives* 8, no. 4 (1993): 16-19.
- Calvin Beale, "Rural Prisons: An Update," *Rural Development Perspectives*

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11, no. 2 (1996): 25-27.

- Tracy Huling, “Building a Prison Economy in Rural America” in *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, ed. Marc Maurer and Meda Chesney-Lind (New York: The New Press, 2002).
- Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*, (Berkeley: University of California Press, 2007).
- Gregory Hooks, Clayton Mosher, Shaun Genter, Thomas Rotolo, and Linda Lobao, “Revisiting the Impact of Prison Building on Job Growth: Education, Incarceration, and County-Level Employment, 1976-2004,” *Social Science Quarterly* 91, no. 1 (2010): 228-244.

## Footnotes

1. The inverse, however, is not true. Zoe Gottlieb, a law student at the New York University School of Law, showed that the pattern of shifting prisoners from Black urban cities to rural White towns does not hold in some southern states. The movement of the incarcerated in North Carolina and Georgia does not involve a clear cross-race transfer. Black populations can be found in both rural and urban areas in these states, making the racial geography problem in these states less important than it is elsewhere in the United States. ↵
2. For example, in New York, 98% of prison cells are located in state Senate districts that are disproportionately white. Counting incarcerated people as residents of correctional facilities thus increases the influence of nearby, largely white, residents. ↵
3. Without the filters described in the methodology that removed some counties with smaller facilities and smaller incarcerated Black populations from the analysis, we would have reported 184 counties where incarcerated Blacks outnumber non-incarcerated Blacks. The 161 counties are in these 31 states: Arizona, Arkansas, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin. ↵
4. Earlier Prison Policy Initiative research shows that 7 State House districts in Connecticut were granted significantly more representation in the state legislature because the majority of Connecticut’s prison cells (which disproportionately held Latino and Black residents) were located in these areas. The incarcerated people counted here, however, were from other parts of Connecticut. For example, in State House District 59, 60% of the Latinos counted as constituents were actually incarcerated residents of other parts of the state. ↵
5. To estimate prisons, we counted the number of Census blocks within these

counties that contain a correctional facility of at least 100 people. This methodology excluded 360 census blocks that are likely either jails or small parts of the facilities already included in our estimate. ↵

6. Without the filters described in the methodology that removed some counties with smaller facilities and smaller incarcerated Latino populations from the analysis, we would have reported 33 counties where incarcerated Latinos outnumber non-incarcerated Latinos. The 20 counties are in these 10 states: California, Colorado, Florida, Illinois, Kentucky, Missouri, New York, Pennsylvania, Virginia, and West Virginia. ↵
7. There are 126 possible combinations of race and ethnicity. ↵
8. This category would include Latinos who said they were of just one race, “Black”. ↵
9. This category includes Latinos of any race or races. ↵
10. This category includes people who said they were of just one race, “white” but who said they were not of the ethnicity Latino. ↵