



**Testimony of Patrick Potyondy,
Policy Manager, Colorado Common Cause**

Senate Committee on State, Veterans, & Military Affairs

Support for HB20-1010

Chair, members of the committee, thank you for the opportunity to comment on House Bill 20 – 1010.

My name is Patrick Potyondy, and I'm the policy manager at Colorado Common Cause, a member-driven *nonpartisan* nonprofit that works for fair and accountable political representation.

Coloradans fully support fair maps, having passed Amendments Y and Z by over 60 percent, and this bill builds upon that impulse. And that is why a diverse coalition of groups are supporting the bill today.

I'd like to address a few of the questions raised most often in relation to this fair-maps reform.

First, is the issue of funding. This bill will not change how federal or state funding is allocated. Period. The redistricting data file is used for redistricting *only*.

Second, what if there's no address? If there is no known last residence, then incarcerated individuals will be redistricted at the prison facility. Although Colorado Common Cause believes that a prison should be no one's home, we believe a reasonable balance has been struck on this point. It ends up ensuring that everyone is included in the decennial redistricting process.

Third, the bill will remove the likelihood or appearance of corruption, since it removes one perverse incentive for a legislator or congressman to desire more incarcerated people in their district. After all, policies like harsher sentencing that includes more years in prison or convicting more people for more crimes will only further bloat the political power of some areas at the expense of others.

Fourth is the quality of the data required to be delivered by the Department of Corrections. We should think about this data as like that collected by the decennial census form itself; *lots* of people only fill out *part* of their forms, but they are still counted and redistricted.

Fifth, what do the courts have to say? After the 2010 Census, Maryland and New York both implemented their respective laws similar to this one. Courts upheld their practice of improving the census' data, New York's by its state court and Maryland's by the U.S. Supreme Court.

And sixth but certainly not least, is the question of legitimate versus arbitrary political representation. Simply because a political district hosts a prison does not mean that it should gain the political power of

those it incarcerates who had no *choice* as to where they reside. This inflation of political power is at the expense of every other district in the whole state. Nowhere in our criminal law is there a penalty of reducing the representation of an area because of the conviction of individuals who are housed there. Under this reform, no legislator or congressional representative *of either party* would benefit politically any longer because of the state prison in their district.

When other countries use state power to arrest and imprison individuals that predominately hail from one or a few communities of interest to reduce those communities' political power, we call that authoritarian and undemocratic. We call those folks political prisoners. We know this is a problem here, but it's one we can fix. The solution is House Bill 1010.

Ultimately, the data adjustment of HB20-1010 simply makes our maps fairer for every community by making them more representative, and I strongly urge a yes vote.

I'm happy to take questions if any.

What about military personnel and college students?

Both students and military members *choose* to serve or move where they go, which is a legitimate means of obtaining residence. In the case of the military, the census bureau already corrects its count data for

deployed members, sort of mirroring this policy actually. It ends up counting deployed servicemembers at their home residence where they live their lives. For college students, the bureau's usual residence rule makes logical sense: students choose to attend a university and choose where they lay their heads (without getting too much into how much "choice" anyone of us has—sorry, the nerd in me can't help but complicate things!). Incarcerated people, on the other hand, have no choice in where they are sent and clumped arbitrarily.

Second, while I want to emphasize this bill is about *community representation*, we need to make the point that both those other groups, military and students, *can vote*. Incarcerated people in prisons are serving a felony conviction and cannot vote while incarcerated. Now, if we want to have another, arguably bigger civil rights discussion and then give incarcerated folks the right to vote, I'm for it, but I doubt that's what you meant to raise.

Note on study of where people return to:

A study conducted by the Brennan Center for Justice at NYU School of Law found that people overwhelmingly went home upon release. The conclusion was based on "interviews with criminal justice officials and data users of wide-ranging expertise" as well as a review of various states' Department of Corrections procedures. Happy to share the study with the committee. *And even if this were not the case*, we should not allow a byproduct of an often unjust criminal justice system to skew our redistricting process.

Other States:

[California](#), [Delaware](#), [Maryland](#), [Nevada](#), [New York](#), and [Washington State](#).

Court Cases?

([Little v New York State Task Force on Demographic Research and Reapportionment](#)) in New York. *Fletcher v. Lamone* for US Supreme Cour, a case out of Maryland.

What about incomplete data?

The state of Colorado's DOC data is similar to that of Maryland's and it worked fine for them.

Second, Karin MacDonald Karin Mac Donald of the database that serves the California independent commission and nationally known redistricting expert, writes that "If the census doesn't get a 'race' [in quotes] that they recognize then they'll just put it into 'some other race.' We have the same issue in California and looking at the 'receiving' blocks, it's not going to be a big deal to have a few more 'some other race' individuals."

Similarly, when people skip questions on the census, they are still counted, and statistical methods are used to impute data as accurate as possible.

Every cycle, states go to redistricting with the data they have, not the data they want.

Length of stay vs 10 years...

Average stay is about 3 years only.

But second, within that time, someone can be arbitrarily moved to another location, so this isn't a static population even for this short time.

And third, people on both sides of the political aisle are having conversations about how some sentencing, especially mandatory minimums, is too harsh. So that 3 years is likely inflated by our sentencing regime on top of everything else.