



New York City AIDS Housing Network (NYCAHN)

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Testimony for the City Council Committees on Civil Rights and Immigration Joint Hearing on the Census and Prison-Based Gerrymandering

NYCAHN Supports Res 2261-2009 and Proposed Res 190-A (Res 0190-2006)

The New York City AIDS Housing Network (NYCAHN) strongly supports both resolutions being considered today and we applaud the Committees on Civil Rights and Immigration for holding a joint hearing on the problem of prison-based gerrymandering and its impact on our state's democracy.

NYCAHN is a membership organization led by low-income people with HIV/AIDS and service providers dedicated to addressing the root causes of the epidemic through community organizing and strategic advocacy. Our VOCAL-NY Users Union program organizes low-income active and former drug users to end the war on drugs. We are also a part of a citywide coalition of grassroots organizations working to reduce the census undercount in communities of color and low-income neighborhoods.

Our members are heavily impacted by incarceration and other crises produced by racial and economic inequalities in our state, and we are very concerned about prison-based gerrymandering and its consequences. Our membership is clearly impacted. For example, approximately 25% of New Yorkers living with HIV/AIDS spend at least one night incarcerated every year – not because they are HIV-positive, but because the epidemic is concentrated in communities with high incarceration rates. Moreover, the war on drugs – and, more accurately, the war on low-income people who use drugs – has driven our soaring prison population.

The current policy of counting prison inmates where they are incarcerated instead of their home communities for the purposes of political redistricting is deeply problematic for several reasons.

Most importantly, prison-based gerrymandering violates the 14th Amendment of the US Constitution that enshrines the one person, one vote principle by increasing the clout of individuals in upstate districts where prisons are located. In addition, it violates the New York State Constitution, which states that "no person shall be deemed to have gained or lost a residence, by reason of his presence or absence ... while confined in any public prison."

Prison-based gerrymandering also recalls the notorious three-fifth's clause written into our nation's constitution that explicitly defined African Americans as less than human but enabled southern states to increase their political power by counting slaves as three-fifths of a person when drawing federal House districts, even though

they had no political representation or any citizenship rights. In New York today, prison-based gerrymandering enables conservative legislators to count prison inmates towards their constituency in electoral districts even though they have no voting rights or common interest within that district. At the same time, it diminishes the political power of the communities where people who are incarcerated come from and where nearly all will eventually return.

Prison-based gerrymandering has the effect of transferring political power from communities of color in urban areas to rural, predominantly white areas. New York City residents represent 66% of the prison population and 91% are housed in upstate prisons. In upstate New York, 30% of population growth in the 1990s was attributable to prison inmates involuntarily relocating there. In our state's prisons and jails, Latinos are 4.5 times and Blacks are 9.4 times as likely as whites to be incarcerated, according to the Sentencing Project. The current policy creates a self-perpetuating system of mass incarceration – those who draw political power from policies that produce a large prison population have no incentive to consider alternatives or solutions. Issues that could reduce incarceration are ignored by policymakers who benefit from the current system – fair drug policies, quality schools, affordable housing, living wage jobs, accessible healthcare and so on.

According to an analysis by Prisoners of the Census, seven New York Senate districts may have to be redrawn if we adhered to our constitutional obligation to count inmates in their home districts. After subtracting inmates, these upstate districts are under-populated beyond an acceptable deviation when drawing electoral districts. Prisoners of the Census also estimate that 69% of New York State's prison cells are in Republican Assembly Districts and 98% of prison cells are in Republican Senate Districts. One example is Republican Senator Dale Volcker, who has been an outspoken critic of Rockefeller Drug Law reform as the former Chair and current Ranking Member on the Senate Codes Committee. His district includes nearly 9,000 prison inmates. It's time for conservative politicians in upstate New York stop using Black and Latino inmates to unjustly exaggerate their political power and distort political representation in our state.

Extensive information about the impact of prison-based gerrymandering in New York available through Prisoners of the Census at <http://www.prisonersofthecensus.org/newyork.html>.

The solution, as outlined in Resolution 2009-1758 and proposed Resolution 190-A, is to count inmates in their home communities rather than where they are incarcerated for the purposes of drawing electoral districts.

Thank you.

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