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**Testimony of  
Peter Wagner, Executive Director, Prison Policy Initiative**

**Before the  
Arizona Independent Redistricting Commission**

**October 25, 2011**

Thank you, Members of the Commission, for providing the opportunity to submit testimony. My name is Peter Wagner and I am the Executive Director of the Prison Policy Initiative. For the last decade, I have been working to quantify the harm to our democracy caused by the Census Bureau's practice of counting incarcerated people as residents of the prison location. The resulting redistricting with skewed district populations is often referred to as prison-based gerrymandering.

The state redistricts every 10 years to make sure that every person gets equal representation, but these efforts can be undermined by data that includes flawed counts of incarcerated populations. When state redistricting is based on unadjusted Census data, districts that contain prisons are padded with large, concentrated groups of people who are counted far from their actual address and cannot vote locally. Consequently, the actual residents of districts that contain prisons are granted unwarranted additional political clout at the expense of the voting power of the residents of all other districts. The unfortunate effect of prison-based gerrymandering is to inadvertently allocate political clout based on an individual's residential proximity to a prison.

Over the last decade, I have led a national effort with other voting rights groups to convince the Census Bureau to count incarcerated people as residents of their legal home addresses. I have also been working closely with state and local governments to develop interim solutions. This commission has already taken the important steps of identifying the problem and seeking solutions when Commissioner Richard Stertz explained that in particular the commission "... [doesn't] want to give any indication of creating a non-voting population in a particular

legislative district that would lead those that can vote into a hyper-majority by virtue of having so many prisoners in a particular legislative district.”<sup>1</sup>

This important principle is grounded in the Arizona Constitution which says that a prison cell is not a residence:

“For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of being present or absent... while confined in any public jail or prison.” (Arizona Constitution, Article VII, § 3.)

Ideally, the Census Bureau would count incarcerated people at home. Or the state would have passed legislation like that in Maryland and New York to reallocate incarcerated people to their home addresses for redistricting purposes. Or the state could have passed legislation that would, as an interim matter, declare that incarcerated people should be treated as having unknown addresses and not be included in any particular district. (This later solution has precedent in Arizona, as the town of Buckeye and Pinal County each refuse to use the prison populations when they draw their own municipal and country districts.)

But your statutory mandate does not give you that flexibility.<sup>2</sup> Therefore, it was suggested that you take the prison populations in to account and try to minimize the impact of the Census Bureau’s prison miscount. To a large extent, it appears you did that. I wanted to suggest two simple changes to your draft map that would make your effort more successful.

First, all of the Florence prisons in Pinal County have been lumped together into Legislative District 8, but some of these prisons could easily be transferred to neighboring District 11. District 8 appears to be drawn 1.53% heavy, but without the prison populations the district is 6.9% too light, diluting the votes of all residents in all other districts. We recommend:

- ▶ Shifting ASPC- Eyman (Tract 000803, Block 1059) to District 8. Extending District 11 north 1.5 miles to pick up ASPC- Eyman has no impact on the voting population of the districts because the census blocks in between have no population, and
- ▶ Increase the voting population of District 8 by adding the remainder of a split precinct -- VTD 0402171 -- (currently shared with District 16) back into District 8.

Second, a similar strategy — adding more population to a district with a large prison — should be employed in Proposed District 1 in Pima, Cochise and Graham Counties. Proposed District 1 would be the 2nd smallest district in the state with the 5th largest correctional population. This

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<sup>1</sup> Commissioner Richard Stertz, Arizona Redistricting Commission Hearing on September 8, 2011, video available at: <http://www.azredistricting.org/Meeting-Info/default.asp>

<sup>2</sup> Arizona Revised Statutes, § 16-1103 “For purposes of adopting legislative and congressional district boundaries ... any entity that is charged with recommending or adopting legislative or congressional district boundaries shall make its recommendations or determinations using population data from the United States bureau of the census identical to those from the actual enumeration conducted by the bureau for the apportionment of the representatives of the United States house of representatives in the United States decennial census....”

district is underpopulated even when using the prisons as padding, and without the prisons this district is 5.3% smaller than the ideal district. An additional precinct should be added to this district.

Crediting many of Arizona's incarcerated people to a few locations, far away from home, enhances the political clout of the people who live near prisons, while diluting the voting power of all other Arizonans. These small changes in the borders of Districts 11 and 1 would make sure that no one Arizona state legislative district is allowed to dramatically bypass the principle of "one person, one vote" by claiming incarcerated people as constituents.

I thank you for the opportunity to submit this testimony.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Wagner', written over the word 'Sincerely,'.

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