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**Testimony of
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Thank you, Members of the Panel, 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. In 2010, we published a report entitled *Importing Constituents: Prisoners and Political Clout in Minnesota*¹, which discussed this problem specifically in context of the districts drawn in Minnesota after the 2000 Census.

For 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. In this testimony I will focus on the interim solutions available to this Panel.

I understand that Brenda Wright of Dēmos will shortly be submitting testimony that reviews the relevant federal and state law on counting incarcerated people for redistricting purposes, as well as reviewing the practices of California, Delaware, Maryland, Massachusetts, and New York, in dealing with the issue of prison-based gerrymandering. I also understand that on October 6, Sarah Walker submitted testimony proposing three interim solutions:

1. Treating incarcerated people as "at-large" rather than in individual districts.
2. Overpopulating districts that contain prisons by the amount of the prison population.
3. Disclosing the prison populations in demographic analysis of the districts.

¹ Available at <http://www.prisonersofthecensus.org/mn/report.html>

I fully support all of her proposed interim solutions, but in this testimony, I'd like to emphasize the importance of her third solution — disclosing the prison populations in demographic analysis of the districts. Although the more comprehensive solutions are clearly the superior choice, all of these solutions offer a step in the right direction and serve to ameliorate the effects of prison-based gerrymandering. I focus on the last solution not because it is the most important — it is not — but because it is a critical minimal step that should not be missed.

I urge the Panel to identify prison populations included in any draft maps prepared for internal use and in any final map released to the public. The previous redistricting cycle in Minnesota illustrates the dangers of hidden prison populations. Minnesota's House Districts are traditionally among the most equal in the country — only 3 other states have House Districts more equal in population. But prison populations hidden in the redistricting data interfered with efforts to create equal districts in Minnesota. Ten years ago, prison populations hidden in the redistricting data led to district deviations nearing 4.5% based actual population.

These deviations were no doubt unintentional, but they were harmful to Minnesota's democracy. The very fact that such deviations were unintentional makes it essential that the Panel keep itself aware of the prison populations while drawing district lines. Whether or not the Panel wishes to institute the proposed solutions to prison-based gerrymandering, the distribution of prison populations among the districts should be a result of a conscious choice rather than a chance result of a Census data quirk.

There is an easy technical solution to ensure that the Panel is fully informed of the prison populations: The Panel should create a column for the total correctional population and report that alongside the total population and other demographic data that the Panel will consider. The data on the prison population can be found in table P42, line 3, in the Census Bureau's Summary File 1, which includes all correctional facilities. For your convenience we also included a subset of that table with just the federal, state, and private prisons, and halfway houses in Minnesota at the end of this testimony. We will also attach an ESRI shapefile and a Caliper Maptitude file with this data.

I concede that my proposal may sound trivial, but in my experience working with prison populations in the redistricting data, it is not always obvious which census blocks contain correctional facilities or how those populations combine with voting rights factors. Making matters even more perilous, the PL94-171 redistricting data may show prisons in unexpected locations, and frequently mixes correctional and residential populations in the same block. The large risks of unintentional prison-based gerrymandering necessitates that we emphasize this most modest proposal.

Massachusetts — whose prison population is similar in size and distribution to that in Minnesota — may offer the most applicable illustration of the types of problems that can be avoided if the redistricting authority is cognizant of the prison-based gerrymandering problem and its solutions.

In 2001, several of the districts drawn at the low end of the required population range contained large state prisons. The actual population of these districts was considerably smaller than that of other districts. Setting aside the Suffolk County House of Corrections, the actual population of the 8th Suffolk District was 8% smaller than the ideal size, giving every 92 real residents of this district the influence of 100 people in other more typical districts.

Massachusetts has a unique State Constitutional clause that prohibits the state from formally reallocating incarcerated people to their homes as Maryland and New York are doing, and as Delaware and California will do in 2020. But this decade the state has used their existing population deviation discretion to draw districts with prisons “heavier” and districts that likely contain the homes of many incarcerated people a little “lighter.”

Being aware of the prison populations can also tell you if any proposed African-American opportunity districts require further analysis. Specifically, if any of the districts are drawn with a voting age population in the range of 50-55% and they contain a prison, the Panel can examine in more detail whether these districts can realistically be expected to perform as intended.²

Minnesota has traditionally valued population equality in redistricting, but that equality requires a closer look at the underlying populations that are used for redistricting. As the Panel sets to drawing new district lines to comply with the principle of “one person, one vote,” the Panel should not allow prison populations to foil its efforts to attain equality. I urge the Panel identify prison populations included in any draft maps prepared for internal use and in any final map released to the public.

² This preliminary analysis can be done by removing the population of the block containing the prison from the district total and recalculating. A more precise analysis can be done using the demographic data by race for the correctional facilities in each block. This data is most easily accessible at <http://prisonersofthecensus.org/locator2010/states/equals-Minnesota/>. The table contains every block in Minnesota that contains any adult correctional population according the Census Bureau. The data in this table comes from the Census Bureau’s Advance Group Quarters Summary File, which is available at <http://www.census.gov/rdo/data/>. Each individual block in the table has a detail page that provides detailed demographic information (age, sex, race and ethnicity) for the prison populations found in that block. Each piece of demographic and other detail data comes with a detailed footnote describing the Census data used to derive the information for that block. (There is not any one table that provides demographic characteristics for prison populations, but several tables can be combined in different ways to produce this data for every block with a correctional facility in the nation except for 6 blocks in Hawaii, New York, and Wisconsin.)

Table

The 22 census blocks that contain state prisons, federal prisons, private prisons and halfway houses in Minnesota along with the populations counted within those facilities by the Census Bureau:

County	Tract	Block	Correctional		
			Population	Facility Name(s)	Facility Type(s)
Anoka County	050229	1020	1,305	Minnesota Correctional Facility-Lino Lakes	State
Carlton County	070500	5021	1,128	MCF Willow River/Moose Lake	State
Chisago County	110200	1049	980	MCF Rush City	State
Hennepin County	008400	1000	25	Volunteers of America	Private
Hennepin County	021602	1014	16	Damascus Way	Private
Hennepin County	105600	3000	21	180 Degrees	Halfway House
Olmsted County	002300	5012	954	Federal Medical Center, Rochester	Federal
Pine County	950400	2132	1,315	FCI Sandstone	Federal
Polk County	020700	1013	8	Red River Valley Juvenile Center	Halfway House
Polk County	020700	1031	139	Tri-County Community Corrections	Halfway House
Ramsey County	033200	1015	12	RS Eden (Women's)	Halfway House
Ramsey County	035500	2007	34	RS Eden (Men's)	Halfway House
Ramsey County	041602	2008	46	Volunteers of America- Female	Private
Rice County	070700	3013	2,058	MCF-Faribault	State
Scott County	080500	2009	588	MCF Shakopee	State
Sherburne County	031500	4008	1,000	MCF St. Cloud	State
St. Louis County	000300	1043	772	Federal Prison Camp Duluth	Federal
St. Louis County	002000	2004	45	Bethel Work Release Program	Halfway House
St. Louis County	011100	2003	150	Northeast Regional Correction Center	Private
Waseca County	790500	2104	1,067	FCI Waseca	Federal
Washington County	070801	1001	1,587	MCF Stillwater	State
Washington County	070802	1001	448	MCF Oak Park Heights	State