

Full-Text Log of Comment Submissions to "2020 Decennial Census Residence Rule and Residence Situations; Notice and Request for Comment," 80 Federal Register 28950 (May 20, 2015)

Comment Submission #	Full Text of Comment Submission
c1	<p>I was chairman of the last Redistricting Committee here in _____ County, a rural county in _____ and I am disappointed that we ended up with severe malapportionment because the Census Bureau counted inmates in a prison in the county as if they were residents of that neighborhood. I am now a County Commissioner and I am working very hard to correct this problem for my county, but I also know we are just one of many counties that are similarly affected.</p> <p>Thank you for the opportunity to comment on the Census Bureau’s Residence Rule and Residence Situations, especially to address where prisoners should be counted. I am writing you to share our experience of using the Census’ data for redistricting and to urge you to count incarcerated people at their home address so that counties like mine can achieve fair representation.</p> <p>As a county in _____, we are basically faced with a classic ‘Catch 22.’</p> <p>Our goal was to follow the Constitution and give equal representation to all the citizens of our County. _____, however, told us that we had to count the prison population in our count when we did our redistricting because that is what the Census showed, even though that runs counter to the state’s residence law. I realize that the Census’ definition of residence is unlikely to perfectly track the 50 state’s definitions, but let me walk you through the _____ residence law (as described by the Secretary of State’s “Guidelines for Determining Residency”) to explain why the current interpretation of the Census Residence Rule and Residence Situations fails to count people where they live:</p> <p>“1. The residence of a person is the place where the person’s habitation is fixed and is where, during periods of absence, the person definitely intends to return.”</p> <p>Now, while I’m sure that a few of our guests at the gray bar hotel will return, (recidivism is a terrible problem in this country), I can pretty much guarantee that there isn’t any one of them that “definitely intends to return.” after they get out.</p> <p>“3. A change of residence is made not only by relocation, but also by intent to remain in the new location permanently, and by demonstrating actions consistent with that intention.”</p> <p>These men have no intention of staying in our fair county one second longer than they have to. If not for the barbed wire and armed guards that place would empty out faster than the county courthouse at quitting time on a Friday afternoon.</p> <p>These men all come from outside our county. Upon release they immediately leave our county. They are not buying homes, raising families and putting down roots here. They came here, quite simply because they were forced to at gunpoint and they stay here only because of walls, wire and armed guards.</p> <p>The 2010 Census put the population of _____ County at approximately 22,000. The inmates at the _____ County Correctional Facility number approximately 2,400. When we break the county up into 6 districts, that puts 3,667 people in each district. But whichever district gets the prison block will only have 1,267 actual residents in it and 2,400 prisoners. That adds a lot of weight to the votes cast in</p>

	<p>that district.</p> <p>To be exact, we end up with the residents of one of our districts having 3 times the representation of the residents in the rest of the county.</p> <p>And the problem has only gotten worse. Previously we had 2 prisons in our county. But one prison was shut down and the other facility was expanded to take in the inmates of the closed unit as well as additional prisoners. This resulted in just one census block containing 10% of our county's population, not one of whom is allowed to vote and not one of whom even considers themselves to be a resident of _____ County.</p> <p>It is impossible to count population bloc like that in our county electoral system and still achieve equal representation among the citizens of this county.</p> <p>In Reynolds v. Sims the U.S. Supreme Court said "The weight of a citizen's vote cannot be made to depend on where he lives." Yet that is exactly what we are forced to do because of the Census. We're left with a 3 to 1 disparity in the representation of the residents in the district with the prison over the residents in other _____ County districts.</p> <p>As a County commissioner here in _____ County I am asking you to please help us correct this problem and get back to the "One Man, One Vote" ideal. Please help us to achieve fair and equal representation to all the citizens of our county, and those across this great nation by revising the Residence Rule or Residence Situations to count incarcerated people at home in the Census.</p>
c2	<p>I would like to comment on Federal Register Notice: 80 FR 28950, 2020 Decennial Census Residence Rule and Residence Situations</p> <p>My comments are related to situation 13: People in Correctional Facilities for Adults</p> <ul style="list-style-type: none"> - Many people in local jails are not sentenced (61% is a number mentioned in a report on New York local jails – outside New York city, see http://www.criminaljustice.ny.gov/crimnet/ojsa/jail_pop_y.pdf). Many of these inmates are probably also included on a household questionnaire, especially when the questionnaire was returned before Census Day as they didn't anticipate being in jail that day. With the presumption of innocence, many innocent people are counted in correctional facilities and I would encourage the Census Bureau to consider counting unsentenced people at their usual place of residence and not in the jail. - Furthermore, I encourage to include a time stamp in the descriptions, for example 6AM and further include all people that are in transit to (or from) that location at that time. People can spend only part of Census day in certain location and be released or be on transit between facilities. <p>A comment not directly related to the residence rules:</p> <ul style="list-style-type: none"> - I would like to see more federal register notices like this that relate to the Decennial Census counting and publication rules. In particular I can think of <ul style="list-style-type: none"> o classification of Group Quarters o classification of vacancy status o definition of households and families, especially for situations with same-sex and unmarried partners.
c3	<p>The Lionheart Foundation 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p>

	<p>The Lionheart Foundation works with thousands of prisoners throughout the United States. Also, I personally live in an urban community where many of the men and women in the community are incarcerated in small towns far from their homes. By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated this population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes.</p> <p>In fairness to all citizens and to preserve the democracy, the growth in the prison population requires the Census to update its methodology to count people where their true home is situated. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because The Lionheart Foundation believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c4	<p>I write in regards to the Census Bureau's Notice and Request for Comment on the 2020 Decennial Census Residence Rule and Residence Situations (Docket No: 150409353-5353-01) published in the Federal Register on May 20, 2015, to determine if changes and updates are needed in advance of the 2020 Census. My office has heard from constituents regarding the impacts of Residence Rule No. 9, U.S. Military Personnel, and the need for modification.</p> <p>In advance of the 2020 Census, the Census Bureau should create a distinction between service members and their families stationed overseas at a U.S. military base and those service members temporarily deployed for contingency operations.</p> <p>The results of the 2010 Census displayed an anomaly that misrepresents the counting of deployed service members for overseas contingency operations. These service members, despite not having a change in their permanent duty station, and who return to their duty station upon completion of their deployment, were counted in accordance with Rule 9(f):</p> <p style="padding-left: 40px;">(f) U.S. military personnel living on or off a military installation outside of the U.S. including dependents living with them – Count as part of the U.S. overseas population. They should not be included on any U.S. census questionnaire</p> <p>The Census Bureau attributes U.S. overseas population to the state on an individual's home-of-record. This practice may work well for members of the Department of State or other government agencies operating outside of the United States, but the Department of Defense fails to properly, and accurately, maintain their records. According to the "2010 Census Federally Affiliated Overseas Count Operation Assessment Report," dated March 19, 2012, "only 59 percent of the 2010 Department of Defense Records contained a home of record."</p>

	<p>As a result of using inaccurate and missing records for the tabulation of deployed service members, the surrounding military communities, which support the families of those service members, were calculated to have a lower population than what should be attributed to the community.</p> <p>My constituents that reside in the region around Fort Campbell, Kentucky, experienced this first-hand following the 2010 census. Despite record home sales, increased public school enrollment, and other economic indicators supporting population growth, the population remained relatively unchanged from the 2000 Census. The only explanation for the discrepancy is the deployment of service members from Fort Campbell to Afghanistan.</p> <p>Starting in late 2009 and continuing through 2010, members of the 1st, 2nd, 3rd, and 4th Brigade Combat teams of the 101st, the 101st Sustainment Brigade, the 159th and 101st Combat Aviation brigades were all deployed to sustain the military “surge” in Afghanistan. It is estimated that at least 10,000 service members were deployed at the collection time of the 2010 Census. Those service members then returned to Fort Campbell at the end of their deployment.</p> <p>I request that the Census Bureau count all deployed service members at the base or port in which they were stationed prior to a short-term deployment for overseas contingency operations. This will create one consistent and logical method for counting deployed service members. By counting deployed service members according to where they actually live, the Bureau more accurately reports the population and ensures communities have the needed resources to support these soldiers and their families.</p> <p>As you consider the need to update residency rules for the 2020 Census, I ask that you continue to keep in mind the impacts of inaction that could severely hinder the support efforts of communities that provide for our deployed military service members and their families.</p> <p>Thank you for your time and thoughtful consideration.</p>
c5	<p>I am writing in opposition to the proposed Census Prison Adjustments. Current provisions state that all people in correctional facilities for adults will be counted at the facility. The proposed adjustments will alter this; people in correctional facilities will instead be counted at their previous “usual residence.” I firmly believe that the residency rules agreed to in the 2010 Decennial Census, wherein incarcerated individuals are counted at their facility, should remain the same for the foreseeable future.</p> <p>Firstly, changing current standards will create unneeded confusion and expense. States which have adopted the prison adjustment as proposed – New York, Maryland, and Delaware – continue to have difficulty accounting for all prisoners accurately. Attempting to adopt this system at the Federal level will add a layer of superfluous complexity to the enumeration process. For example, accounting for prisoners incarcerated in a different state from their “usual residence” or a different state from their conviction would involve reviewing and adjusting prisoner counts. This could consequently change the numbers used in the apportionment of United States House seats in 2020. Moreover, the pre-incarceration residences of many prisoners can be difficult to establish, and in some cases may just be guessed based on where the prisoner was arrested.</p> <p>Part of the issue at hand is that the effects of reapportionment and redistricting are not clearly known to individual states. It is no secret that the push to change current rules is being driven by activist groups who seek to gain politically from the proposed rule changes. This could leave the Census Bureau exposed to a conflict similar to the adjustment controversy of 2000, wherein miscounting lead to the misallocation of a US congressional seat.</p> <p>In summary, I urge you to oppose the residency rule changes for incarcerated individuals. We currently have a system that works, makes</p>

	sense, and is non-partisan.
c6	<p>I am writing you this humid, hot North Carolina afternoon asking that you please reconsider the proposal to change the manner in which prisoners are counted for by the Bureau.</p> <p>I believe that the Bureau would be making a huge mistake if it were to not continue with business as it is currently done and count the prisoners in the location of their incarceration; the rules regarding residency that were established in the 2010 Decennial Census should remain the same.</p> <p>Firstly, how is the Bureau going to establish the residences of prisoners prior to their incarceration? It may seem rather easy to do; however, what about the career criminals who bounces back-and-forth between halfway houses and correctional institutions? Are you going to simply base their residence on the location of their most recent arrest?</p> <p>While I think that some may think this is a very elementary task of determining the residency of prisoners, this is just another solution in search of a problem. As we used to say in the Army, this briefs well. What I mean is that in theory this may seem easy to do but if the Bureau was to actually implement this policy, the results would be disastrous.</p> <p>Also, if the proposed rule changes take hold, it is possible that minority communities located in rural areas will be disenfranchised, and not protected as they should be per the Voting Rights Act. This could also open the door to future adjustments motivated by political gain, such as adjustments of residency rules for college students and military personnel.</p> <p>In closing, I urge you again to oppose the residency rule changes for incarcerated individuals.</p>
c7	<p>The Real Cost of Prisons Project 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Every day, we advocate on 'behalf of incarcerated women and men, so that the powers that be know there is someone paying attention, and holding them accountable. We are dedicated to making known the ideas of men and women who are incarcerated. We see firsthand the importance of an accurate count of incarcerated people.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Illinois, for example, 60% of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99% of them as if they resided outside Cook County.</p>

	<p>When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. In New York after the 2000 Census, for example, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents. For this reason, New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes.</p> <p>New York State is not the only jurisdiction taking action. Three other states (California, Delaware, and Maryland) are taking a similar state-wide approach, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universality implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because the Real Cost of Prisons Project believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c8	<p>I represent the _____ District in the Virginia House of Delegates and submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the nation's population.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Virginia, this resulted in a single state house district where people counted in state and federal facilities account for 12% of the district's total population.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p>

	<p>But this ad hoc approach is neither efficient nor universality implementable. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state to have to adjust the Census' data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because democracy relies on a population count that accurately represents communities, I urge you to count incarcerated people as residents of their home address.</p>
c9	<p>I am submitting these brief comments in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015). I urge the Census Bureau to count incarcerated individuals at their home address and not at the address of the prison facility.</p> <p>I am an active user of census data for the academic analysis of redistricting plans. I also frequently serve as a consultant to state and local governments as they develop redistricting plans, and as an expert witness in litigation pertaining to redistricting plans. Given the size of the incarcerated population in United States, counting the prisoner population at the site of the prison can produce inequitable results in the redistricting process. Such results can be particularly problematic for local government electoral districts with smaller total populations, and minority groups if their electoral strength is decreased by counting group members at the site of a prison and not at their home addresses.</p> <p>An excellent example of "prison gerrymandering" in my home state of Wyoming pertains to state senate districts 3 and 6. To avoid having two incumbents in the same district, an appendage from district 6 is drawn north for 17 miles to include a prison housing approximately 500 individuals. The ideal population for a Wyoming state senate district is approximately 19,000 individuals. Thus, counting 500 non-voting prisoners at the site of the prison inflates the value of ballots cast by non-prison voters in district 6 relative to surrounding state senate districts. Simply said, this is unfair to the voters in the other 29 state senate districts. A map of district 6 can be viewed at the link below:</p> <p>(http://www2.census.gov/geo/maps/dc10map/SLD_RefMap/upper/st56_wy/sldu56006/DC10SLDU56006_001.pdf).</p>
c10	<p>Fair Elections Legal Network (FELN) 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). We urge you to count incarcerated people at their home address, rather than at the particular prison facility they happen to be located at on Census day.</p> <p>FELN is a national nonpartisan voting rights and legal support organization whose mission is to remove barriers to registration and voting for traditionally underrepresented constituencies. We work to improve overall election administration through administrative, legal, and legislative reform as well as provide legal and technical assistance to voter mobilization organizations. As such, we recognize that the Bureau's use of the prison as a "residence" contradicts most state constitutions and statutes, which explicitly state that incarceration does not change a residence.</p> <p>When state and local officials use the Census Bureau's prison count data, they give extra representation to the communities that host the prisons despite the fact that those who are able to vote from prison must invariably do so by absentee ballot from their home address – not from the prison address. By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. The current definition of residence dilutes representation and is detrimental to democracy.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the</p>

	right place in keeping with changes in society and population realities. Fair Elections Legal Network believes in a population count that accurately represents communities, thus, we urge you to count incarcerated people as residents of their home address.
c11	<p>I am writing in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations.</p> <p>I serve as an elected Town Meeting Representative in Precinct _____ in _____, _____, a community that hosts a correctional institution (_____, which actually straddles our border with the town of _____). Ever since _____ adopted a Representative Town Meeting form of government in 1971, the town charter has stipulated that our 150 Representatives in Town Meeting (RTMs) must be apportioned between the precincts (Town Meeting districts) according to the “number of inhabitants” in each precinct. In concept, this means the most populous precinct should have the most number of RTMs, while the smallest precinct by census should have the least number of RTMs. In general, for a Representative Town Meeting which is, by its very name, intended to be “representative” of the people, this form of apportionment makes sense.</p> <p>But because the Census Bureau counted people incarcerated at _____ as if they were residents of Precinct _____ (where the prison is located), Precinct _____ became the third most populous precinct in town, at least on paper. Without the prison, Precinct _____ is actually the least populous, and should therefore have the least number of RTMs. And as it is, Precinct _____ has the least number of registered voters of all precincts.</p> <p>In 2010 the Census Bureau assigned _____ prisoners at _____ to a census block in our town. So now Precinct _____ gets a bump of about three extra RTMs. This boost unfairly gives extra influence to Precinct _____ voters, who get more representation for fewer actual residents. Under state law, prisoners are not allowed to vote and, because of their incarceration, don’t typically use town services.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of our population.</p> <p>_____ is one of seven communities in _____ with a Representative Town Meeting that doesn’t adjust Census data when apportioning RTMs among precincts. The other towns are _____.</p> <p>Our problem isn’t unique; when state and local officials use the Census Bureau’s prison count data, they give extra representation to the communities, and individual precincts, that host the prisons and dilute the representation of everyone else. This is bad for democracy.</p> <p>Because I believe in a population count that accurately represents my community, I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p>
c12	<p>Hi there. I am writing to comment on the Census Bureau’s federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015).</p> <p>First, I urge you adjust the “usual residence” rule to count incarcerated people at their home address, not where they happen to be incarcerated on census day. Second, I want to thank you for giving this apparently small technical point the attention it deserves. Details like this are what make the Census Bureau such an important and reliable source of information.</p> <p>I am a professional researcher. For the past five years I have done research at SEIU, the labor union; for five years before that I was research director at Campaign for America's Future, a think tank; for ten years before that I worked in and around the criminal justice system. It would be hard to overestimate how often I use Census data or what I use it for. But locating population for purposes of political apportionment is central and fundamental.</p> <p>As you know, the US rate of prison incarceration hovered around 100 per 100,000 up until roughly 1980. Nowadays it is closer to 500 per 100,000, without even including local jails. Along with the explosive growth in custody has come growth in racial disparities, with African American men incarcerated at roughly six times the rate of white men. Nowadays over two million people are in prison or jail – one in 100 adults, and more people than our three least populous states combined (I know that from census data; thanks!).</p>

	<p>Applying the simple usual residence rule to people in custody might once have been reasonable. But times have changed. Above all else, it affects redistricting, the fundamental purpose of the census. Jurisdictions rely on census data to draw political districts and fairly allocate voters among representative districts. Counting people in custody where they are confined – not where they actually live – introduces avoidable error. Most people in prison will return to their usual residence in far less time than a decennial census.</p> <p>Four states and over 200 counties and municipalities have enacted new rules to adjust population data when drawing government districts. The states are California, Delaware, Maryland, and New York, who represent 20% of the US population between them. Other states that have considered or are currently considering related actions include Virginia, Illinois, Texas, Georgia and Oregon. If that much of the country thinks something is wrong, it is time for the Census Bureau to act. Indeed, a deliberate national correction is far preferable to ad hoc efforts by assorted jurisdictions on their own.</p> <p>I note that the Massachusetts legislature might have made a similar adjustment, but it determined that the state constitution binds it to the state to the Census Bureau's determinations regarding residence and it specifically requested the Census Bureau to change the rule. I expect that still other jurisdictions may have hit similar obstacles or simply haven't dealt with the problem yet.</p> <p>Thank you for considering a change in the rule. Because the Census count is fundamental to our representative democracy, I urge you to count incarcerated people where they actually live, not where they are temporarily confined.</p>
c13	<p>Prisoners' Legal Services of New York (PLS) 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). PLS urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Founded in 1976, PLS provides direct civil legal services to more than 10,000 incarcerated individuals annually. PLS provides this underserved population with legal representation on a myriad of civil legal issues such as access to adequate medical and mental health care, proper housing, education and programming, child support and visitation, challenges to disciplinary proceedings and the use of excessive force, and matters relating to jail time credit and sentence calculations. All of the work PLS does helps prepare incarcerated individuals for release and successful reintegration into society.</p> <p>Along those lines, PLS is extremely interested in ensuring that the individuals we serve are given equal and appropriate representation by representatives of the communities from which they came and to which they will return. Counting incarcerated individuals at their home address gives those who will be returning to their communities a vested interest in helping to shape the future of their community.</p> <p>In the fall of 2006, the National Research Council issued a report commissioned by the United States Census Bureau finding that counting prisoners as residents of the prisons where they were housed distorted the political process and raised legitimate concerns about the fairness of the census itself. Thus, the issue of where to count prisoners in the census is not new.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge</p>

	<p>implications for the accuracy of the Census. By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people.</p> <p>For instance, in New York's Livingston County, which uses weighted voting, the town of Groveland derived 62% of its population from one large prison after the 2000 census; allowing the Groveland Supervisor to exercise 107 Board of Supervisor votes instead of the 40 votes he would be entitled to without the prison. And the problem extended to the State Legislature as well; seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents. For this reason, New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes.</p> <p>New York State is not the only jurisdiction taking action. Three other states (California, Delaware, and Maryland) are taking a similar state-wide approach, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts Legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because PLS believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c14	<p>The Pennsylvania Institutional Law Project [PILP] 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The PILP provides free civil legal assistance to the institutionalized population in Pennsylvania. We have a state law 25 P.S.2813 that sets an inmates home residence as the proper residence for voting purposes. We believe the entire country should follow our example.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people.</p>

	<p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>The PILP also has identified specific inaccuracies flowing from the Bureau’s current method of counting incarcerated persons as follows [cite examples]. We have previously called upon the Census Bureau to change its practice as well in prior correspondence.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because [org name] believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c15	<p>A New PATH (Parents for Addiction Treatment & Healing) 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). A New PATH urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>A New PATH (Parents for Addiction Treatment and Healing) is a non-profit advocacy organization. We advocate for treatment instead of incarceration for individuals who have been convicted of non-violent drug-related crimes, and for treatment behind bars. Our mission is to reduce the stigma associated with addictive illness through education and compassionate support and to advocate for therapeutic rather than punitive drug policies.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because A New PATH believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c16	<p>My name is _____ and I am the Coordinator Community Alliance on Prisons. We submit 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).</p> <p>Community Alliance on Prisons urges you to count incarcerated people at their home address, rather than at the particular facility where they happen to be located on Census day.</p> <p>Community Alliance on Prisons is a community initiative promoting smart justice policies in Hawai‘i for more than a decade. This testimony is respectfully offered and always mindful that approximately 6,000 Hawai‘i individuals are under the ‘care and custody’ of the Department of Public Safety, including 1,400 men who are serving their sentences abroad, thousands of miles from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.</p>

The disproportionate impact of the criminal justice system on Native Hawaiians accumulates at each stage of the criminal justice system. Native Hawaiians are also more likely to receive a sentence of incarceration over probation.¹

Hawai'i contracts with Corrections Corporation of America to house more than 1,400 of our incarcerated men in Saguaro Correctional Center in Eloy, Arizona. Hawaiians are over-represented in the incarcerated population that is banished from Hawai'i.

In researching Eloy, Arizona on the web, we found that the population there has increased 63.8% since the 2000 census.

Population in 2013²: 16,996 (68% urban, 32% rural).

Population change since 2000: + 63.8%

Males: 11,038 (64.9%)

Females: 5,958 (35.1%)

The **male population has increased 64.9%**. This is not difficult to believe since Corrections Corporation of America opened **Red Rock Correctional Center in 2006** with a capacity of **1,596**; **Saguaro Correctional Center in 2007** with a capacity of 1,896 and recently increased capacity by 30 beds = **1926**; and **La Palma Correctional Center in 2008** with a capacity of **3,060**.

These three prisons added 6,582 men to the “population” of Eloy – a 59.6% increase in the male population!

The tragedy of this skewed census count is that most of Hawai'i's incarcerated individuals are not from Eloy -- or even from Arizona, for that matter.

The census count is used as the basis for many of the decisions that affect Hawaiians (Kanaka Maoli), the first people of the islands; our host culture. Counting incarcerated persons where they are involuntarily housed causes harm to Hawai'i, in general and to Hawaiians, in particular. Incarcerated people in Hawaii are disproportionately Hawaiian. In the 2000 Census, 18% of the state was Native Hawaiian. A more recent figure reported in the 2010 report *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*³ reported that 24% of the population is Native Hawaiian. The Department of Public Safety reports that approximately 40% of incarcerated people are of Hawaiian ancestry; yet is widely known that the population of incarcerated Native Hawaiians is approximately 60%.

This means that CCA's three prisons house almost 60% of the male population in Eloy, AZ. Federal funds are based on population, impacting Hawai'i's share of federal funds.

The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.

A prison cell is NOT a residence, despite being designated as such in the 2010 Census. By doing so, the Census Bureau concentrated a population that is disproportionately male and persons of color, and in our case Hawaiian, who are located far from their

	<p>actual homes and ancestral lands.</p> <p>Prison-based gerrymandering violates the constitutional principle of “One Person, One Vote.”⁴ The Supreme Court requires districts to be based on equal population in order to give each resident the same access to government. But a longstanding flaw in the Census counts incarcerated people as residents of the prison location, <u>even though they can’t vote and aren’t a part of the surrounding community.</u></p> <p>When legislators claim people incarcerated in their districts are legitimate constituents, they give people who live close to the prison more of a say in government than everybody else. This is not fair or accurate.</p> <p>We urge the Census Bureau to fix this egregious flaw that is motivated by politics, rather than thoughtful policymaking.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities.</p> <p>Because Community Alliance on Prisons believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p> <p>¹ Hawai‘i State Department of Health, Office of Health Status Monitoring, special tabulation from the Hawai‘i Health Survey, January 22, 2010. http://hawaii.gov/dbedt/info/economic/databook/2008-individual/01/; Hawai‘i Criminal Justice Data Center; Office of Hawaiian Affairs, “Databook 2006: Public Safety,” March 2006. www.oaha.org/pdf/databook/2006/DataBook2006PublicSafety.pdf; Hawai‘i Department of Public Safety, 2008 Annual Report (Honolulu, HI: Department of Public Safety, 2008). http://hawaii.gov/psd/administration/publications/annual-reports/department-of-public-safety/PSD-AnnualReport2008.pdf</p> <p>² http://www.city-data.com/city/Eloy-Arizona.html#ixzz3f9dYqm2W</p> <p>³ http://www.justicepolicy.org/uploads/justicepolicy/documents/10-09_exs_disparatetreatmentofnativehawaiians_rd-ac.pdf</p> <p>⁴ But it wasn’t until 1963 that “One person, one vote” became a widely articulated core principle of the Constitution when it was first spoken by Chief Justice Earl Warren’s Supreme Court. http://www.theconstitutionproject.com/portfolio/one-person-one-vote/</p>
c17	<p>Liberty County Georgia is home to Fort Stewart, 3rd Infantry Division. The population of Fort Stewart is approximately 22,000. Liberty County is very proud to be home to this great military division. However, these soldiers impact our community greatly in their utilization of our roads, court system, schools, and other infrastructure. During the last Census, April 1, 2010, the entire 3rd Infantry Division was deployed overseas to a war zone. The division redeployed to Fort Stewart completely by July 31, 2010. During this time, the number of soldiers that was deployed numbered between 13,000 and 16,000.</p> <p>When the Census count was taken on April 1, 2010 we estimated that Liberty County was under counted between 11,000 and 13,000 people. We would like to note also this is the second U.S. Census that we were under counted as the 3rd Infantry Division was also deployed April 1st 1990. We are able to confirm this under count by reviewing the Command Data Summary Report that Fort Stewart produces on an annual basis. It shows the troop strength on a monthly time frame so we know how many soldiers are at Fort Stewart on any given month. A snap shot of April 1, 2010 indicates that its population was about 8,000 which included those families that lived in post housing. Once the soldiers all returned, that number on September 1, 2010 was approximately 20,000 or a difference of over 12,000 people.</p> <p>The Army’s deployment rotation is normally 9 to 12 months depending on the mission. These units deploy and then come back to the same base of origination. A home station is established, they leave and return. There is a rule already in place by the Bureau, Number 9</p>

	<p>(c) that is established for U.S. military personnel on U.S. military vessels (Navel) with a U.S. homeport. These personnel are counted at the onshore U.S. residence where they live and sleep most of the time. If they have no onshore U.S. residence, they are counted at their vessel's homeport." It is our direct feeling that all military personnel, regardless of their branch affiliation, should be handled and counted in the same manner.</p> <p>In closing, the disproportionate treatment in this count methodology has and will result in direct economic loss to the county as many grant opportunities are affected. We cannot control the timing of deployments but must maintain a consistent level of service during their occurrences. We only get one shot every ten years to accurately reflect the impacts and needs of our community. Please consider changing the current rule to be consistent with all branches of the service.</p>
c18	<p>I am a senior citizen and witnessed the growth in the 1990's of ten (10) new prisons built in 'depressed areas' of New York State, during a time when crime was actually going down! Yes, it provided more jobs BUT ... WHAT IT'S ALSO DONE ... is given greater population numbers to (political) representatives in those districts ... thus the obvious imbalance of political clout! Well over 95% of the number of inmates in those prisons did not come from those districts and therefore, those numbers should <u>not</u> be considered in any census count ... unless (perhaps) counted in the districts where they came from. However, given the fact that once they're released, they can't vote anyway ... then just simply subtract their numbers from the district they're housed at!</p>
c19	<p>I am writing in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations.</p> <p>A lot of people from my community end up in prison, and it's not fair that they get counted as if they were residents of the prison town instead of at home with us. Giving our political power to people who want to lock up more of our community members just doesn't make sense.</p> <p>Because I believe in a population count that accurately represents my community, I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p>
c20	<p>In 2010, the U.S. Census Bureau counted deployed service members as part of the population of their home of record. During this time, there were approximately 10,000 service members stationed at Fort Campbell who were deployed from the installation at the time of the census. Furthermore, over 250,000 United States military personnel were temporarily deployed overseas in support of contingency operations, or for other short-term missions. Home of record is generally defined as the permanent home at the time of entry or re-enlistment into the Armed Forces as included in personnel files; when a deployment ends, soldiers return to their home base- not their original home town or home of record.</p> <p>This once a decade head count sets a baseline population upon which annual estimates are based for the next ten years. Many federal and state assistance programs use formulas based on the decennial census or derivatives from the decennial census data. With the current methodology, the communities in which these service members reside prior to deployment are deprived of potentially large sums of federal and state funding.</p> <p>By using the last duty station to count deployed service members the 2020 Census data will depict a more accurate representation of where the deployed service members live prior to deployment and in return allow the communities where these service members live access to more funding to provide services and programs for the military members and their dependents during the following ten year period.</p> <p>Thank you for consideration of this request.</p>
c21	<p>In 2010, the U.S. Census Bureau counted deployed service members as part of the population of their home of record. During this time,</p>

	<p>there were approximately 10,000 service members stationed at Fort Campbell who were deployed from the installation at the time of the census. Furthermore, over 250,000 United States military personnel were temporarily deployed overseas in support of contingency operations, or for other short-term missions. Home of record is generally defined as the permanent home at the time of entry or re-enlistment into the Armed Forces as included in personnel files; when a deployment ends, soldiers return to their home base- not their original home town or home of record.</p> <p>This once a decade head count sets a baseline population upon which annual estimates are based for the next ten years. Many federal and state assistance programs use formulas based on the decennial census or derivatives from the decennial census data. With the current methodology, the communities in which these service members reside prior to deployment are deprived of potentially large sums of federal and state funding.</p> <p>By using the last duty station to count deployed service members the 2020 Census data will depict a more accurate representation of where the deployed service members live prior to deployment and in return allow the communities where these service members live access to more funding to provide services and programs for the military members and their dependents during the following ten year period.</p> <p>Thank you for consideration of this request.</p>
c22	<p>In 2010, the U.S. Census Bureau counted deployed service members as part of the population of their home of record. During this time, there were approximately 10,000 service members stationed at Fort Campbell who were deployed from the installation at the time of the census. Furthermore, over 250,000 United States military personnel were temporarily deployed overseas in support of contingency operations, or for other short-term missions. Home of record is generally defined as the permanent home at the time of entry or re-enlistment into the Armed Forces as included in personnel files; when a deployment ends, soldiers return to their home base- not their original home town or home of record.</p> <p>This once a decade head count sets a baseline population upon which annual estimates are based for the next ten years. Many federal and state assistance programs use formulas based on the decennial census or derivatives from the decennial census data. With the current methodology, the communities in which these service members reside prior to deployment are deprived of potentially large sums of federal and state funding.</p> <p>By using the last duty station to count deployed service members the 2020 Census data will depict a more accurate representation of where the deployed service members live prior to deployment and in return allow the communities where these service members live access to more funding to provide services and programs for the military members and their dependents during the following ten year period.</p> <p>Thank you for consideration of this request.</p>
c23	<p>I am a volunteer in the Massachusetts Prison system. I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility where they happen to be housed on Census day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because I believe in a population count that accurately represents</p>

	communities, I urge you to count incarcerated people as residents of their home address.
c24	<p>I'm writing in response to your federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015).</p> <p>So many individuals in my state of Florida end up in prison. But they are not counted as if they are residents of their home town but as residents of some far off town- which in fact is mostly rural-meaning town's with very little of our state's population.</p> <p>Therefore we are now "giving" our political power to these individuals-those who benefit highly from incarcerating most individuals-- as our society's solution to problems that we "all" face. Does this serve the "best" interest of "one and all" or rather the interests of a few select?</p> <p>I urge you therefore, to count incarcerated people in their home town, and not in some distant rural town where the facility is located "on" that particular Census Day!</p>
c25	<p>Justice Strategies is submitting 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). Justice Strategies urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Justice Strategies conducts research on criminal justice and immigration detention issues and supports advocates who seek practical policy solutions and more humane, effective and safe alternatives to the massive and unprecedented incarceration levels that has made the United States number one among all nations for the number of people it places in jails and prisons. The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. Since then, the nation's incarcerated population has more than quadrupled to over two million people, the vast majority of whom will ultimately return to their home communities. The manner in which this population is counted now has huge implications for the accuracy of the Census, and more importantly the very nature of what it means to be a representative democracy.</p> <p>In order to ensure the proper apportionment of local representatives to our national Congress, Article 1 Sec. 2 of the United States Constitution calls for the enumeration of the population every ten years. The "usual residence" rule violates the spirit, if not the letter, of this constitutional principle, by counting people in correctional facilities as residence of political jurisdictions where neither they, their families, nor their fellow community members are likely to live, and from which their political interests are not represented.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. Today, the growth in the prison population requires the Census to update its methodology, not only to safeguard the accuracy of the Census, but the political interests of the people of the United States as well.</p> <p>The inaccuracies inherent in the "usual residence" rule are not just problematic for the proper apportionment of political representation at the national level. States rely heavily on the accuracy of the US Census to do much the same, sometimes with peculiar results. In Illinois, for example, 60% of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99% of them as if they resided outside Cook County. In New York State, after the 2000 Census, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents.</p> <p>New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes. However, New York is not the only State taking such action. Three other states (California, Delaware, and Maryland) are taking a similar state-wide approach. Additionally, over 200 counties and municipalities individually adjust population data to avoid prison</p>

	<p>gerrymandering when drawing their local government districts.</p> <p>Although these ad hoc measures by localities and states are appropriate and necessary adjustments to the inaccuracies inherent in the US Census Bureau's application of the "usual residence" rule, they are neither efficient nor universally implementable. The Massachusetts legislature concluded that its state constitution did not allow it to pass similar legislation. The Massachusetts legislature sent the Bureau a resolution in 2014 urging it to tabulate incarcerated persons at their home addresses. See The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014). We urge the same.</p> <p>Justice Strategies believes in a population count that accurately represents communities. The accuracy of the US Census is a critically important linchpin of our democracy. We strongly urge you to count incarcerated people as residents of their home address.</p> <p>Thank you for the opportunity to comment on the Residence Rule and Residence Situations.</p>
c26	<p>As a member of the board of directors of the Prison Policy Initiative, and as a resident of a state in which the current Residence Rule distorted election district boundaries, I submit this comment in response to the Census Bureau's federal register notice regarding proposed changes to the Residence Rule and Residence Situations as outlined in 80 FR 28950 (May 20, 2015).</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and Black or Latino into 5,393 census blocks that are located far from the actual homes of incarcerated people. When the PL 94-171 data are used for redistricting purposes, as is almost always the case, prison populations unfairly inflate the political power of people who live near prisons.</p> <p>In my home state of North Carolina, two counties removed the prison populations tabulated in the PL 94-171 data when they conducted redistricting for local government, thereby avoiding inflating the political clout of people who lived in the county districts that contained the prisons. On the other hand, one county commission district and school district in Granville County, NC is heavily underpopulated due to the county's decision to rely on the PL 94-171 data for redistricting, which counted the people incarcerated in the county as if they resided in the county. (Granville County is home to a massive federal prison complex, the population of which was included in county election district redistricting and state legislative district redistricting.) The former are examples of the lengths to which local governments must go to adjust data effected by the Residence Rule, and the latter is an example of the political distortion that the Residence Rule causes when local governments rely on the PL 94-171 data provided by the Census Bureau.</p> <p>Thank you for the opportunity to comment on the proposed changes to the Residence Rule and Residence Situations. As a board member of an organization that has been studying the effect of the Residence Rule on prison populations and redistricting for more than a decade, and as a resident of a state in which the Residence Rule impacts election district boundaries, I respectfully urge the Census Bureau to count incarcerated people as residents of their last home address.</p>
c27	<p>I am writing in response to your May 20th federal register notice regarding the Residence Rule and Residence Situations.</p> <p>I think you should strongly consider revising the policy with regard to where general quarters populations are counted, particularly prisoners. Prisoners are often short term residents in correctional facilities with ongoing and permanent ties to their original homes. They are part of communities where they come from. When they are counted as living in prisons, and not in their real communities, it does damage to those communities. This damage occurs when federal and local officials use census data to make policy decisions, and to draw district maps. It dilutes the representation the home communities and increases the representation of the district with the prison.</p>

	<p>Further people living in prisons are disproportionately black and hispanic. When you count all of those black and hispanic people in their facilities, rather than their homes, you weaken the black and hispanic vote. This is bad for democracy.</p> <p>We live in a country with two million incarcerated people. We cannot continue distorting our democracy by misplacing all two million of them.</p>
c28	<p>We are public health physicians who have retired from the Centers for Disease Control and Prevention.</p> <p>We submit 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). Our comments are based on public health analysis.</p> <p>We urge you to count incarcerated people at their home address, rather than at the particular correctional facility where they are located on Census Day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau place the incarcerated people, who are disproportionately male, urban, and African-American or Latino, into the 5,393 Census blocks of the prisons where they are held, which are located far from the actual homes of the incarcerated people. When these data are used for Congressional redistricting, the incarcerated people increase the political power of the districts where prisons are located. At the same time, the political power of the home communities of the incarcerated people is diminished.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right.</p> <p>Because we believe in a population count that accurately represents communities, we urge you to count incarcerated people as residents at their home addresses.</p>
c29	<p>The New Jersey Tenants Organization (NJTO) 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The NJTO is the oldest, largest statewide tenant membership organization in the United States. Over the last 46 years, NJTO has changed New Jersey from one of the worst states for tenants to (arguably) the best. NJTO has been successful in establishing the basic rights of tenants to organize and be treated as human beings with the right to safe, healthy, and affordable homes, rather than just lessees at the mercy of lessors. We have also been the driving force behind the movement for municipal rent control in New Jersey.</p> <p>But our efforts to ensure fair tenant laws are hindered when communities are shortchanged on representation. When the Bureau routinely publishes redistricting data that counts our incarcerated residents as if they lived across the state, it shifts political power, and consequently shifts our legislature's priorities.</p> <p>We commend the Bureau for striving to count everyone in the right place and thank you for this opportunity to comment on the residence rules. NJTO believes our state, and the nation, needs a population count that accurately represents all communities, so we urge you to count incarcerated people as residents of their home address.</p>
c30	<p>In 2010, the U.S. Census Bureau counted deployed service members as part of the population of their home of record. During this time, there were approximately 10,000 service members stationed at Fort Campbell who were deployed from the installation at the time of the census. Furthermore, over 250,000 United States military personnel were temporarily deployed overseas in support of contingency</p>

	<p>operations, or for other short-term missions. Home of record is generally defined as the permanent home at the time of entry or re-enlistment into the Armed Forces as included in personnel files; when a deployment ends, soldiers return to their home base- not their original home town or home of record.</p> <p>This once a decade head count sets a baseline population upon which annual estimates are based for the next ten years. Many federal and state assistance programs use formulas based on the decennial census or derivatives from the decennial census data. With the current methodology, the communities in which these service members reside prior to deployment are deprived of potentially large sums of federal and state funding.</p> <p>By using the last duty station to count deployed service members the 2020 Census data will depict a more accurate representation of where the deployed service members live prior to deployment and in return allow the communities where these service members live access to more funding to provide services and programs for the military members and their dependents during the following ten year period.</p> <p>Thank you for consideration of this request.</p>
c31	<p>Colorado-CURE 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>We at Colorado-CURE are interested in ending prison gerrymandering/ensuring equal representation in the entire United States. We are a 25 year old criminal justice organization in Colorado.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as 1985, Colorado had less than 3,400 people in state prisons, by 2012 that figure was 20,462. As a percentage of our total population over that same time period, Colorado's incarceration rate has quadrupled. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a Colorado population that is disproportionately male, urban, and African-American, Latino or Native American into less than two dozen facilities that are typically located far from the actual homes of incarcerated people.</p> <p>Because Colorado has not passed legislation like California, Delaware, Maryland, and New York to adjust the Census' population totals to count incarcerated people at home for state legislative' redistricting purposes, this flawed data distorts the legislative redistricting process in Colorado.</p> <p>However unlike some other states, our state does not contain any instances of prison gerrymandering at the county level because our legislature had the forethought in 2002 to pass Senate Bill 02-007, an Act Concerning County Commissioner Redistricting which requires (emphasis added):</p> <p>Each district shall be as nearly equal in population as possible based on the most recent federal census of the United States minus the</p>

	<p>number of persons serving a sentence of detention or confinement in any correctional facility in the county as indicated in the statistical report of the Department of Corrections for the most recent fiscal year.</p> <p>Each district shall be as nearly equal in population as possible based on the most recent federal census of the United States minus the number of persons serving a sentence of detention or confinement in any correctional facility in the county as indicated in the statistical report of the Department of Corrections for the most recent fiscal year.</p> <p>(This statute only applies to county redistricting, but my understanding is that all of the relevant cities in Colorado that contain large correctional facilities have chosen to adjust their redistricting data in similar ways.)</p> <p>We urge you to bring uniformity and simplicity to this process by counting incarcerated people at home in the next Census.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Colorado-CURE believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c32	<p>Ohio Voice 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). Ohio Voice urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>We are the Ohio affiliate of State Voices, Ohio Voice which represents a diverse group of 5013c organizations that support civic engagement, fair representation and engagement and empowerment of underrepresented communities. We have long held a particular interest in fair representation in legislative bodies. The current system of counting incarcerated people, as a part of a legislative district where the prison is located skews and in no way is method for ensuring equal representation.</p> <p>American demographics and living situations have changed since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. The number of incarcerated people currently is over two million people. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Ohio, this process added more than 9000 people to a district by counting the prison population and this is only one example.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts. This ad hoc approach is neither efficient nor universality implementable.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place. Because Ohio Voice believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>

c33	<p>The League of Women Voters of Wisconsin 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The League supports equality in representation for all citizens in our state. In 2010 we supported legislation to amend our state constitution to exclude incarcerated, disenfranchised felons from the enumeration of population for the purposes of apportionment and redistricting of legislative, county and certain other district offices. We believe this resolution is an important step in achieving equality. However, we noted at the time that it would be preferable if the U.S. Census Bureau would change the way it counts incarcerated offenders.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the past few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. For example, Wisconsin has historically drawn legislative districts so that their population-sizes are within 2% of the average. But by counting incarcerated individuals as part of the districts in which they are incarcerated, Wisconsin awards greater political representation to districts with prisons than to those without them. To make matters worse, many of the incarcerated individuals are disenfranchised, which reduces the number of eligible voters in the prison districts and magnifies the influence of their vote.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census population totals to count incarcerated people in their home district, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>While this strategy lessens the problem in those four states, such an ad hoc approach is not an efficient solution overall nor will it work in every state. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because the League of Women Voters of Wisconsin believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c34	<p>On behalf of the State of North Carolina, we have read the 2020 Decennial Census Residence Rule and Residence Situations Federal Register notice of May 20, 2015. We are grateful that the Census Bureau has demonstrated a continuing commitment to producing accurate data to support state government, business, and public needs. We appreciate the opportunity to review and comment on the residence rules used in conducting the decennial census.</p>

	<p>The current Census residency rules do not count the deployed military in the military communities where they usually reside: During emergency deployments this process produces flawed data that harms funding and planning in military communities. Deployed military populations must be counted in the county of the military community in which they usually reside. For these reasons, North Carolina recommends the following changes to the Census residency rules for deployed military populations:</p> <ol style="list-style-type: none"> 1. Assign Last Duty Station as the primary residency field from the Defense Manpower Data Center records for deployed military. This will allocate deployed military to their supporting community, is consistent with Census counting of group quarters populations at their group quarters community, and efficiently uses established administrative records resources already used by the Census Bureau. 2. Count deployed spouses with their families. Local experience in 2010 suggests that families of deployed spouses were confused by Census instructions and did not complete their Census form, increasing the undercount of population in military communities. Changing the residency rule and instructions to count deployed spouses with their family will simplify Census participation, reduce confusion, improve data quality, and count the deployed military in their usual place of residence. 3. Work with military bases, including National Guard and Reserve facilities, to locate more accurate administrative records for counting deployed military in their communities. 4. Use administrative records to provide socioeconomic characteristic information on the deployed military population. <p>Census data is vital to policy, service, and economic development of communities. Changing residency rules for deployed military populations to count these populations within a county is consistent with Census processes for other types of group quarters and provides more accurate information for military communities. We appreciate the value of reliable data, and North Carolina is committed to working with the Census Bureau to improve the quality of this valuable resource.</p>
c35	<p>I am submitting 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). I urge you to count incarcerated people at their home address, rather than at the particular facility in which they happen to be located on Census day.</p> <p>Since my days in the Wisconsin State Senate, I have attempted to end the gerrymandering of prisoners in order to ensure equal representation. The Wisconsin Legislature did not accept my motion to change how prisoners were counted in the census. In Wisconsin, prisoners do not remain in the communities in which they were incarcerated, but rather, they return to their home communities. The originating home communities are then penalized due to the way the census is tabulated.</p> <p>The growth in the prison population over the past decades necessitates the Census Bureau to update its methodology, as it relates to incarcerated persons. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million and now the number of incarcerated people has more than quadrupled, to over two million people behind bars. This longstanding flaw in the Census counts incarcerated people as residents of the prison location, even though they cannot vote and are not part of the surrounding community. The manner in which this population is counted now has huge implications for the accuracy of the Census. When you count incarcerated people in districts as legitimate constituents, it awards people who live close to the prison more of say in government than everybody else.</p> <p>Further, the designation of a prison cell as a residence in the 2010 Census concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated individuals. In Wisconsin for instance, Milwaukee County contains 18% of the state population but the state's prison population is made up of 42% of</p>

	<p>Milwaukee County residents. Virtually all of the state's prison cells are located outside of the county. In effect, each group of 9 residents in one particular district has as much political power as 10 residents elsewhere in the state. Wisconsin has historically drawn legislative districts so that their population- sizes are within 2% of the average. However, with the way incarcerated individuals are counted, Wisconsin awards greater political representation to districts with prisons than to those without them.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state- wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Census Bureau strives to count everyone in the right place in keeping with changes in society and population realities. I urge you to count incarcerated people as residents of their home address.</p>
c36	<p>The Correctional Association of New York (CA) 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The CA is an independent, non-profit organization founded by concerned citizens in 1844 and granted unique authority by the NY State Legislature to inspect prisons and to report its findings and recommendations to the legislature, the public and the press. Utilizing a strategic model of research, policy analysis, prison monitoring, coalition building, leadership development and advocacy, the CA strives to make the administration of justice in New York State more fair, efficient and humane. The CA's three principal programs - the Prison Visiting Project, the Women in Prison Project and the Juvenile Justice Project - work to stop the ineffective use of incarceration to address social, economic and public health problems; advocate for humane prison conditions; empower people directly affected by incarceration to become leaders; and promote transparency and accountability in the criminal and juvenile justice systems.</p> <p>Ending mass incarceration requires fair representation, but the Census Bureau's current methodology systematically shifts political power to legislators with large incarcerated populations in their districts. This "constituent" bonus incentivizes legislators to support maintaining bloated prison populations.</p> <p>But this wasn't always a problem; as you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the nation's incarcerated population has more than quadrupled to over two million people. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated</p>

	<p>people.</p> <p>When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. In New York after the 2000 Census, for example, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents. For this reason, our state passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes.</p> <p>While we and three other states (and over 200 counties and municipalities) all individually adjust population data to avoid prison gerrymandering, it makes far more sense for the Census Bureau to count incarcerated people at home, accurately counting incarcerated people nation-wide.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because the Correctional Association believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c37	<p>I am writing concerning Federal Register Notice [Docket Number 150409353-5353-01] requesting comments regarding the 2020 Decennial Census Residence Rule and Residence Situations.</p> <p>I wish to begin by saying that these residence rules, developed through the Bureau's extensive experience through many decennial censuses, should remain as they are stated in the above referenced notice.</p> <p>I am particularly concerned about proposals to adjust group quarters residence rules for those incarcerated in prisons. The primary rule governing decennial census counts is that the enumeration should represent a "snapshot" of where persons are residing on Census Day, <i>not where they formerly resided</i>. Such adjustments will only open the door to further manipulation of the census counts to suit the sociological and political goals of persons proposing such rule changes.</p> <p>Furthermore, these changes could embroil the Bureau in political conflicts and decrease the confidence of the American public in the neutrality of the decennial census process. It could also decrease the participation rate in the enumeration with faulty census information. There may be a possibility that these adjustments could alter the numbers determining the reapportionment of the seats of the U. S. House among the States, and bring on unnecessary litigation.</p> <p>In 2010 Decennial Census process (New York, Maryland and Delaware) demonstrated that the procedures used yielded questionable results and, in some cases allocating inmate counts to general, rather than specific locations due to lack of sufficient information. It is also notable that the three states which engaged in prison adjustment in 2011 are Democrat-controlled states, and this adjustment would not have been done were it not advantageous to the party in power. <i>Once again, the Bureau should not act as an agent for increasing partisan advantage.</i></p> <p>The Bureau will have to deal with the issue that adjustment of individual counts for group quarter, from where they resided on Census Day to their former residence, may involve moving these counts to other states.</p> <p>Because of the expense and complexity of initiating this process on a nationwide basis, I believe such adjustments should be left up to the individual states, and not be imposed by the Federal Government.</p> <p>For these reasons, I oppose changes to the residence rules stated in the Federal Register notice, and urge the Bureau to readopt the previous rules. What is the MOTIVE behind changing it in the first place?!</p>
c38	<p>I am submitting 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). I urge you to count incarcerated people at their home address, rather than at the particular facility where they happen to be located on Census day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated</p>

	<p>people. When this data is used for redistricting, prisons inflate the political power of those people who live near them, and take away the ability of people in the incarcerated peoples' home neighborhoods to fully participate in our democracy. This disturbs me hugely as a citizen.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because I believe in a population count that accurately represents communities, I urge you to count incarcerated people as residents of their home address.</p>
c39	<p>Common Cause in Connecticut 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). We urge you to count incarcerated people at their home address, rather than at the particular facility where they happen to be located on Census day.</p> <p>Common Cause is an organization dedicated to strengthening our laws to protect voting rights and to ensuring that every voter has an equal say in our elections. Using the Census counts to draw state and local legislative districts enhances the weight of a vote cast by people who live near prisons at the expense of everyone else in the state or county.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people.</p> <p>In Connecticut this resulted in the majority-white residents of 7 State House districts getting significantly more representation in the legislature because each of their districts included at least 1,000 incarcerated African Americans and Latinos from other parts of the state.</p> <p>For example, State House District 59, (Enfield) claimed more than 3,300 African Americans and Latinos as constituents. But 72% of the African Americans and 60% of Latinos were not actually residents of the district, but rather were temporarily incarcerated in the Enfield, Willard, and Robinson Correctional Institutions.</p> <p>The resulting dilution of African-American and Latino political power was not limited to the 59th district: 86% of the state's prison cells are located in disproportionately white house districts.</p> <p>We have been working to pass state legislation to end this problem in the state but the U.S. Census could do this nationwide.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p>

	<p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c40	<p>As a former member of Maine Regional School Unit 13's Board of Directors I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As a former elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of our population.</p> <p>Our Regional School Unit (RSU 13) uses a weighted voting system to apportion votes among the member towns. When we two districts consolidated to make one, we based the weighted vote system on Census Bureau estimates for 2006, we relied on Census data that counted the people incarcerated at the Maine State Prison as if they resided in the town of Thomaston. The prisoners had been moved to a neighboring town of Warren three years prior. This most unfortunate result gave every nine people in Thomaston as much of a say over our children's education as 10 residents from the other towns. This was a classic case of vote dilution.</p> <p>To some, this may seem like an academic discussion, but the distorted vote allocation has serious practical legislative consequences. In 2011, for example, a very narrow vote by the RSU 13 Board moved my town of St. George's 8th graders to an 8th and 9th grade school in Thomaston. (We have since withdrawn from the school district and this was a catalyst) The supporters of the school shift prevailed only because the representatives from Thomaston were able to cast additional votes because of the Census prisoner misallocation. It was tough to explain to my constituents why their vote was equal to that of somebody incarnated in Warren, but perhaps from New York. Simply put, it wasn't and isn't fair to the population to dilute the vote this way. I worked tirelessly to correct this matter, but it wasn't until petitions, and motions were filed trying to fix this, and finally the new number from the Census Bureau arrived. It wasn't until the new numbers arrived that this problem was finally corrected, but the damage was done.</p> <p>The RSU 13 eventually redistricted again, and this time, adjusted the Bureau's data but our reliance on the Bureau's data in the past left lasting harms. And while we solved the problem ourselves, albeit through a long drawn out exercise, and continue to apply our band-aid solution in the future, I doubt we're the only ones whose democratic institutions would benefit from more accurate data coming straight from the Census Bureau.</p> <p>Thank you for this opportunity to comment on your residence rules, all the work you do, and I urge you to count incarcerated people as residents of their home address.</p>
c41	<p>I write in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations. Thank for giving the public a chance to contribute on this matter because it is one that I feel strongly about.</p> <p>I believe in a population count that accurately represents my community, I urge you therefore to count incarcerated people at their home</p>

	<p>address, rather than at the facility that they happen to be located at on Census day.</p> <p>For example a lot of people from New York City end up incarcerated in Dannemora, N.Y.S. From your Census count of 2010, <u>as you now count it</u>, we know Dannemora has 3, 936 <i>residents</i>. But that at least 2,800 of those '<i>residents</i>' are incarcerated men in the Clinton Correctional Facility in Dannemora.</p> <p>I lived, voted, and paid my taxes in New York City when a member of my community was incarcerated in Clinton Correctional Facility in Dannemora for several years.</p> <p>Neither he, nor any of his peers who came from N.Y.C. ever felt they were democratically represented by political representatives from that region. Quite simply, the political concerns of people living in N.Y.C. are very different from those of rural upstate Dannemora.</p> <p>I give a tiny example from our personal experience to show how unjust the situation is as it stands. I do this because I know our situation is not unique.</p> <p>One weekend when visiting said community member, I was walking back from the facility to my overnight accommodation across from the outside wall of the prison. I put some candy wrapper I had in a garbage can and walked on. I heard someone shouting, but thought nothing of it. The shouting continued and continued. I finally looked about and realized the shouting was indeed directed at me. It was a prison guard on duty high up on the tower in the prison. He told me to take my garbage out of the garbage bin because it was a private garbage bin, not for public use. I excused myself and did so, and then I asked him where I might find a public garbage bin. He thought for a moment, and then he said there were no public garbage bins in Dannemora. I asked what should I do with my garbage as I had come from NY for the weekend... He replied 'Take it back to New York City with you'.</p> <p>Ms. Humes, every weekend at least 100 people from N.Y.C. visit loved ones in Dannamora. The economy of Dannemora and surrounds receives millions yearly as a result of our loved ones being incarcerated there.</p> <p>Right now the Census Bureau recognizes Clinton Correctional Facility as the '<i>residence</i>' to 1000's of men from New York City. Over the years that is a count of several thousands of men from New York City who were or are counted as being '<i>residents</i>' of Dannemora.</p> <p>But the political representation for our loved ones incarcerated in Dannemora did not reach to include the availability of one garbage bin being on the street for use by their families when visiting them in their '<i>residence</i>' in Dannemora.</p> <p>This is only one tiny example. Most respectfully, one does not need to be a social nor political scientist to see this is not fair representation.</p>
c42	<p>I urge you to revise your procedures for including incarcerated people in future U.S. Censuses. The figures for incarcerated people are basic to redistricting and in areas with high prison populations, districts become unequal in voting eligible population when people who cannot vote are included in the census.</p> <p>In my state, Arizona, for example, there are districts with much higher prison populations than other districts. Some of the prisons are explicitly for the purpose of housing non-citizens waiting determination of status. None of these people are eligible to register to vote, yet they must be included in determining the size of the district.</p> <p>Further, incarcerated people are generally disproportionately members of minority groups. Since redistricting calls for fair representation</p>

	<p>of minorities in districts, counting the prison population who live in otherwise largely non-minority districts leads to unfair results. I recommend that you count these people as living at their home address, not their residential address.</p> <p>In the case of non-citizens, they should not be listed as residents of the prison area. There are a few large incarceration centers in Arizona established for the explicit purpose of housing non-citizens, but they are currently included when counting total population and minority population. This makes minority representation in a few districts highly misleading when redistricting since they cannot vote, both because of their citizenship status and their incarceration status.</p> <p>Thank you for your consideration.</p>
c43	<p>Family Reconciliation Center (formerly Reconciliation, Inc.) 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African- American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Family Reconciliation Center believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c44	<p>International Citizens United for Rehabilitation of Errants (CURE) and its state and issue chapters submit 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). International CURE urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>International CURE is a grassroots organization dedicated to the reduction of crime through the reform of the criminal justice system (especially prison reform.). Although we are now an international organization, we were founded in Texas in 1972 and our US National and state chapters remain at the core of our mission. We write to you now on behalf of and in conjunction with those chapters because we are concerned about the U.S. Census Bureau's role, however unintentional it might be, in tilting the US electoral system in favor of those who support mass incarceration and against those who seek a just criminal justice system.</p> <p>By counting incarcerated people as if a prison cell were their residence, the Census Bureau counts incarcerated people, who are disproportionately male, urban, and African-American or Latino, in the wrong place. When this data is used for redistricting, prisons inflate the political power of those people who live near them and dilute the votes of everyone else.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place. Because International CURE believes in a population count that accurately represents all communities, we urge you to count incarcerated people as residents of their home address in the decennial census.</p>
c45	<p>I am writing in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations.</p> <p>A lot of people from my community end up in prison, and it's not fair that they get counted as if they were residents of the prison town instead of at home with us.</p>

	<p>Giving our political power to people who want to lock up more of our community members just doesn't make sense. Because I believe in a population count that accurately represents my community, I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p>
c46	<p>The League of Women Voters of the Northwoods 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). We urge you to count incarcerated people at their home address, rather than at the particular facility where they happen to be located on Census day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of the incarcerated people. For example, Wisconsin has historically drawn legislative districts so that their population-sizes are within 2% of the average. But by counting incarcerated individuals as part of the districts in which they are incarcerated, Wisconsin awards greater political representation to districts with prisons than to those without them. To make matters worse, the incarcerated individuals are disenfranchised. The number of eligible voters in the prison districts are reduced and the influence of the voters in the district is magnified. When this data is used for redistricting, prisons inflate the political power of the people who live near them.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because League of Women Voters of the Northwoods believes in a population count that accurately represents communities and the principles of one person, one vote, we urge you to count incarcerated people as residents of their home address.</p>
c47	<p>The League of Women Voters of Dane County (Wisconsin) 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). We urge you to count incarcerated people at their home address, rather than at the particular facility where they happen to be located on Census day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and minority into just 5,393 Census blocks that are located far from the actual homes of the incarcerated people. When this data is used for redistricting, it removes power, influence, and financial resources from the neighborhoods from which this population comes and to which this population will return.</p> <p>Thank you for the opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because the League of Women Voters of Dane County (Wisconsin) believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c48	<p>Californians United for a Responsible Budget (CURB) 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As a statewide coalition of over 70 organizations, CURB is working to stop prison and jail construction, reduce the amount of people inside, and reinvest the saved resources into alternatives to incarceration, education, and restoring the social safety net.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p>

	<p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In California, this resulted in Los Angeles County being misrepresented. Los Angeles County contains 28% of California’s population, yet it only contains 3% of California’s state prison cells. In other words, few persons are incarcerated in Los Angeles County compared to the number of persons incarcerated that come from this county, which is 34%. According to the 2010 U.S. Census Summary, Blacks make up only 6% percent of California’s total population, yet they make up 27% of the incarcerated population.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a statewide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. See The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because CURB believes in a population count that accurately represents communities, we <u>urge you to count incarcerated people as residents of their home address.</u></p>
c49	<p>I am writing in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations 80FR28950 (May 20, 2015). We are a church which is a community of faith by and for prisoners. They and their families become members. We network with prisoners during their incarceration and after their release. Over the years we have been involved in the movement to have prisoners counted for the Census at their home addresses rather than in the facility where they are located.</p> <p>For years district leaders and legislators in New York State have fought to have new prisons built in their district so that the prison population would add to the population of that district. Some districts would not exist if it were not for counting the prisoners. Prisons inflate the political power of those who reside there and minimize the power of those who live in the urban centers—who are chiefly African American and Latino,</p> <p>The practice of prison gerrymandering when government districts are drawn must stop.</p> <p>Thank you for the opportunity to comment on the Residence Rule and Residence Situations as the Census Bureau strives to count everyone in the right place in keeping with changes in society and population realities.</p> <p>We at the Church of Gethsemane believe in a population count that accurately represents communities. We are asking you to count incarcerated people as residents of their home addresses.</p>
c50	<p>I am writing in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations.</p>

	<p>A lot of people from Dallas County end up in prison, and it's not fair that they get counted as if they were residents of the prison town instead of at home with us. Giving our political power to people who want to lock up more of our community members just doesn't make sense.</p> <p>Because I believe in a population count that accurately represents my community, I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p>
c51	<p>Legal Services for Prisoners with Children (LSPC) 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). LSPC urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Founded in 1978, Legal Services for Prisoners with Children (LSPC) enjoys a long history advocating for the civil and human rights of people in prison, their loved ones and the broader community. Our vision of public safety is more than a lock and key. We believe that the escalation of tough-on-crime policies over the past three decades has not made us safer. We believe that in order to build truly safe and healthy communities we must ensure that all people have access to adequate housing, quality health care and education, healthy food, meaningful work and the ability to fully participate in the democratic process, regardless of their involvement with the criminal justice system.</p> <p>California law says a prison cell is not a residence. "A person does not gain or lose a domicile solely by reason of his or her presence or absence from a place while ... kept in an almshouse, asylum or prison." (California Elections Code § 2025.) But a longstanding flaw in the Census counts incarcerated people as residents of the prison location, even though they can't vote and aren't a part of the surrounding community. When legislators claim people incarcerated in their districts are legitimate constituents, they award people who live close to the prisons more say in government and dilute the representation of everyone else. This is bad for democracy.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. For example, Los Angeles County contains 28% of California's overall population, and 34% of the state's prisoners' population. However, few prisoners are actually incarcerated in Los Angeles, which contains only 3% of California state prison cells. The consequences include, counting thousands of incarcerated men and women as members of the wrong communities and enhancing the political clout of the people who live near prisons. (<i>California 2010 Census Guide</i>. Peter Wagner, Mar. 2010. Web. 08 July 2015.)</p> <p>Another problem with the prison population in California is the racial disparities between Whites, African Americans, and Latinos. African Americans are over-represented in the prison and jails population; African Americans represent 7% of our population but 27% are incarcerated. Hispanics are also over-represented in California prisons and jails; Hispanics represent 38% of our total population and 41%</p>

	<p>are incarcerated. Compared to Whites who are underrepresented in California Prisons and jails; White make up 40% of our population but represent 26% of the incarcerated population. Because African-Americans and Latinos are disproportionately incarcerated, counting incarcerated people in the wrong location is particularly bad for proper representation of African-American and Latino communities. The Census Bureau needs to improve the accuracy of the data about the African-American and Latino population. (Wagner, Peter. "California Profile, Prison Policy Initiative." <i>California Profile</i>. N.p., n.d. Web. 08 July 2015.)</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a statewide approach to adjust the Census's population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. LSPC believes in a population count that accurately represents communities, so we urge you to count incarcerated people as residents of their home address.</p>
c52	<p>I am writing in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations.</p> <p>A lot of people from my community end up in prison, and it's not fair that they get counted as if they were residents of the prison town instead of at home with us. Giving our political power to people who want to lock up more of our community members just doesn't make sense.</p> <p>Because I believe in a population count that accurately represents my community, I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p>
c53	<p>Voice of the Ex-Offender (V.O.T.E.) 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>We at V.O.T.E. are interested in ending prison gerrymandering/ensuring equal representation in the entire United States. We are a membership-based organization founded and run by formerly incarcerated persons, and we believe that the communities that our members come from are the ones most impacted by the malapportionment that prison gerrymandering causes.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, due to the massive growth in the prison population, the Census needs to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. In 1980, there were less than 10,000 people incarcerated in Louisiana, but by 2012, there were approximately 40,000 people incarcerated in the state of Louisiana alone. New Orleans, where V.O.T.E. is located, incarcerates more people per capita than anywhere in the world. As a result, the manner in which the incarcerated is counted has huge implications for the accuracy of the Census and for the political representation of</p>

	<p>the communities hardest hit by incarceration. In fact, over half of Louisiana's state prison population comes from just four parishes: Orleans, Caddo, East Baton Rouge, and Jefferson.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into facilities that are typically located far from the actual homes of incarcerated people.</p> <p>Because Louisiana has not passed legislation like California, Delaware, Maryland, and New York to adjust the Census' population totals to count incarcerated people at home for state legislative redistricting purposes, this flawed data distorts the legislative redistricting process at the state and, even more so, at the local level. For example, twelve of Louisiana's State House Districts and ten of Louisiana's State Senate Districts drawn after the 2010 Census fail to meet constitutional population requirements without prison populations. Locally, in Allen Parish, a federal prison population is 66% of one district, and a state prison is 39% of another district. In Catahoula Parish, half of one district is incarcerated, meaning five people in that district have as much voting power as ten people in any other one of Catahoula Parish's districts.</p> <p>We urge you to bring uniformity and simplicity to this process by counting incarcerated people at home in the next Census.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Voice of the Ex-Offender believes in a population count that accurately represents communities, as we did in February 2013, we once again urge you to count incarcerated people as residents of their home address.</p>
c54	<p>Colorado Common Cause 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). For purposes of the census, we urge you to count incarcerated people at their last-listed home address, rather than at the particular facility where they happen to be incarcerated on Census Day.</p> <p>Redistricting is a top issue for Colorado Common Cause. We believe districts should fairly represent their communities. When county populations include people incarcerated in area prisons, state legislators use inaccurate information when re-drawing Congressional and legislative districts. The Census Bureau, to which most states – including Colorado – refer when apportioning residents for redistricting purposes, has the power to change this practice.</p> <p>As with many other states, the majority of people incarcerated in Colorado's prisons are convicted in urban counties but incarcerated in prisons located in rural counties. For example, fifty percent of the people admitted to prison in Colorado in 2012 were convicted in the urban counties of Denver, Arapahoe, Jefferson, and El Paso, but the great majority of incarcerated people in Colorado were housed in rural counties. Fremont County, Colorado, represents the most egregious example. Only 1.23% of the Colorado Department of Corrections' 2012 public prison population had a home address in Fremont County, but the county's six state prisons are the incarcerated address for 29 percent of the state's 2012 public prison population.</p> <p>Since the African American and Hispanic/Latino populations are disproportionately incarcerated in Colorado, and these populations tend to live in the state's urban areas, these populations are also misrepresented during the census by counting their prison cell as their residence. Votes cast in these prison districts carry more weight than others as a result of the artificial residency number, while the urban districts where the prisoners are from have less; this is a fundamental unfairness we seek to redress.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations. Because Colorado Common Cause believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address</p>

	on Census Day.
c55	<i>This comment submission contains graphics and cannot be displayed in this table. It is available as Appendix Attachment c55.</i>
c56	<p>Grassroots Leadership 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Grassroots Leadership fights to end for-profit incarceration and reduce reliance on criminalization and detention through direct action, organizing, research, and public education. We are interested in ensuring fair political representation for the communities hardest hit by incarceration.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the nation’s incarcerated population has more than quadrupled to over 2 million people. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Illinois, for example, 60% of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99% of them as if they resided outside Cook County.</p> <p>When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. In New York after the 2000 Census, for example, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents. For this reason, New York passed state legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes.</p> <p>In addition to New York, three other states (California, Delaware, and Maryland) are taking a similar statewide approach, and over 200 counties and municipalities individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the Massachusetts state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>While Grassroots Leadership is a national organization, we have identified specific inaccuracies flowing from the Bureau’s current method of counting incarcerated persons in the state of Texas, where we are based. In two districts (District 13 near Walker County and District 8 near Anderson County), almost 12% of each district’s 2000 Census population is incarcerated. As a result, each group of 88 actual residents in these two districts is given as much political clout as 100 people elsewhere in Texas.</p>

	<p>In February 2013, we called upon the Census Bureau to change this practice, and we once again urge you to count incarcerated people as residents of their home address, ensuring a population count that accurately represents all communities.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations and your work to count everyone in the right place in light of changes in society and population realities.</p>
c57	<p>On behalf of my constituents, I am writing to support changing the Census Bureau’s residence rules to count incarcerated individuals at their homes, rather than designating prisons as their “usual residences.”</p> <p>As the prison population of the United States grows, it has become increasingly important to account for prisoners accurately in the Census. Prisons are often located in areas that otherwise have low population densities, so counting prisoners as residents of those areas is massively distorting. The current rule complicates the drawing of representative electoral districts, and it disproportionately misrepresents the residence of minority men.</p> <p>Counting prisoners at their home addresses is important in ensuring they are represented in our democracy. Prisoners’ legal residence remains their home address, and they usually return to that address when released. Those who can vote do so absentee using their home address; under Michigan law, they remain electors in their home districts. As a legislator, I can assure you that most of my colleagues do not treat prisoners brought into their districts as their constituents. Instead, prisoners are referred to the legislative office representing their home address.</p> <p>Michigan has done its best to keep misleading prison Census numbers from distorting redistricting, but the solution is far from perfect. Problems have arisen regarding federal facilities, and Michigan’s policies are different from those used in other states. In order to ensure that the same method is used to account for prisoners’ residences across the United States, I respectfully urge the Census Bureau to adjust the residence rule to count prisoners in their home districts. This change will provide better data both for social science and for drawing the electoral districts upon which our representative democracy depends.</p>
c58	<p>FairVote: The Center for Voting and Democracy submits these comments in response to the Census Bureau’s notice regarding the Residence Rule and Residence Situations, 80 Fed. Reg. 28950 (May 20, 2015) (the “Rule”). FairVote urges the Bureau to change the Rule to count incarcerated people not as residents of the facility in which they are housed during the Census but as residents of their home address or place of residence prior to incarceration.</p> <p>FairVote is a 501(c)(3) non-profit organization founded in 1992 whose mission is to advocate for fairer political representation through election reform. FairVote develops analysis and educational tools necessary to win and sustain improvements to American elections. FairVote is particularly dedicated to the principle of fair representation for every voter, and it works for reforms that promote respect for every vote and every voice in every election.</p> <p>As this comment describes, the problem of “prison gerrymandering” violates important democratic principles. Representatives are most accountable to non-voting populations when they represent their actual residences – the communities that share values and interests with those populations. When a person is incarcerated and moved to a different location, it does not mean that the representative in that location will be accountable to them; instead, it merely inflates the voting power of the community of voters in that new location while diminishing the voting power of their own home community.</p> <p>Under the current Rule, prison cells are designated as a residence. People who are incarcerated on Census Day are considered residents of the facility in which they are housed, rather than their actual homes or places of residence. As a result, a large segment</p>

	<p>of the population is classified as residing away from their actual homes and communities. This population also happens to be disproportionately male, urban, and African-American or Latino.</p> <p>Since 1980, the United States' incarcerated population has more than quadrupled from less than half a million to over two million people. The rapid rise in the number of incarcerated people has major implications for the accuracy of the Census and, consequently, the accuracy of electoral districts drawn using that data.</p> <p>The skewed Census data resulting from the Rule affects our political system at every level of government. Most jurisdictions rely on Census data to draw legislative districts with roughly equivalent populations. However, when the Census contains skewed residence information, districts containing prisons may be considered "equal" in size despite containing fewer residents. As a result, voters in these districts have more powerful votes than those of other districts. For example, in New York after the 2000 Census, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were actual residents of those districts. This disparity led New York State to pass legislation to which adjusts Census data to count incarcerated people at home for redistricting purposes.</p> <p>The inclusion of incarcerated people as district residents has led several states, including New York, to take action. New York has passed legislation which adjusts Census data to count incarcerated people at their actual or prior residences for the purposes of redistricting. California, Delaware, and Maryland are also taking a similar state-wide approach. In addition, more than 200 counties and municipalities have all individually adjusted population data to avoid artificially inflating the population of prison districts when drawing their local government districts.</p> <p>However, this type of stop-gap is neither efficient nor available for all jurisdictions. The Massachusetts legislature was unable to pass legislation similar to that of New York after it concluded that the state constitution did not allow it. As a result, in 2014, the Massachusetts legislature sent a resolution to the Bureau urging it to tabulate incarcerated persons at their home addresses.¹</p> <p>FairVote appreciates having the opportunity to comment on the Residence Rule and Residence Situations. As the Bureau strives to count all people in their proper place, FairVote urges that the Residence Rule and Residence Situations be amended to require counting incarcerated people as residents of their home address or place of residence prior to incarceration.</p> <p>¹ See The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p>
c59	<p>I am writing, in both my personal capacity and as a coordinator of research groups on de/incarceration here at _____ and in the community in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015).</p> <p>Our members, situated in upstate and small town New York and active in local jail and prison research and teaching, urge the Census to record incarcerated persons in their home, originating, districts. This is commonly couched in New York and elsewhere as an issue for large cities, but as data on New York and other similar states would indicated, many prisoners return to small and rural towns—almost half of New York's released prisons return to "upstate" New York for example—well beyond the New York City metropolitan area.</p> <p>If we want an accurate picture of the population we need to update the methodology of the Census. Some states have done this; it would be</p>

	<p>very critical for the Census to change the “usual residence” rule as well. A federal standard would, moreover, provide a common basis for current state rulings which vary considerably.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations.</p>
c60	<p>Women Who Never Give-Up (“WWNG”) 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). WWNG is a 501(c)(3) nonprofit organization that confronts a wide range of criminal justice and prison-related issues. We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population. Because WWNG believes in a population count that accurately represents all communities, we urge you to count incarcerated people as residents of their home address.</p>
c61	<p>The Minnesota Second Chance Coalition 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The Minnesota Second Chance Coalition is a partnership of over 50 organizations that advocate for fair and responsible laws, policies, and practices that allow those who have committed crimes to redeem themselves, fully support themselves and their families, and contribute to their communities to their full potential. An accurate count of incarcerated people is vital to ensuring fair representation that reflects our communities and advances these goals.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Minnesota, this resulted in four state house districts that derive at least 3% of their required population from prisons located in the district.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p>

	<p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because the Coalition believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c62	<p>The Council on Crime and Justice (The Council) 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). The Council urges you to count incarcerated people at their home address, rather than at the address of facility where they happen to be located on Census day.</p> <p>The Council on Crime and Justice is a private, non-profit agency located in Minneapolis, MN, that has been a leader in the field of criminal and social justice for over 56 years. The Council provides an independent voice for a balanced approach to criminal justice. It has also been at the forefront of many new programs in such areas as offender services, alternative sanctions, victim's rights, and restorative justice. The Council's work seeks a criminal justice system that is equitable and just, treats people with compassion and dignity, and allows for second chances, creating a safe and thriving community.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Minnesota this resulted in four state house districts that derive at least 3% of their required population from prisons located in the district.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p>

	<p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because [org name] believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c63	<p>The Criminal Justice Policy Coalition submits this comment in response to the Census Bureau’s federal register notice regarding the Residence Rule and Residence Situation, 80 FR 28950 (May 20, 2015).The Criminal Justice Policy Coalition urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As a non-profit organization dedicated to the advancement of effective, just, and humane criminal justice policy in Massachusetts, the Criminal Justice Policy Coalition has a significant interest in ending prison gerrymandering and ensuring equal representation. The current Census Bureau policy of counting incarcerated people at their particular facility constitutes a violation of justice and democracy.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Massachusetts, this resulted in roughly 10,000 people counted at their facility location rather than their actual home, which is their legal address for other purposes.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a statewide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>This ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. See The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014). In following our state’s initiative and the calls of other organizations such as the Prison Policy Initiative, we, the Criminal Justice Policy Coalition, urge the Census Bureau to count incarcerated people at their home address for the 2020 census.</p> <p>The Prison Policy Initiative also has identified specific inaccuracies at both the state and local levels flowing from the Bureau’s current method of counting incarcerated persons. Within Massachusetts, the most significant problems arise when towns rely on accurate data from the Census Bureau to assign representatives for their representative town meeting government, but the towns unknowingly use skewed numbers due to the Census Bureau methodology. For example, the town of Plymouth has a total of nine representative members, three of which are directly attributable to the Plymouth County Correctional Facility. That is, 33% of the representatives come from the incarcerated population. The same is the case in the town of Ludlow, where 5 of the 15 precinct representatives are attributable to the</p>

	<p>Hampden County Correctional Center. Additionally, the people incarcerated in the Bristol County House of Correction and Jail, Bristol County Sheriff's Office Women's Center, and the C. Carlos Carreiro Immigration Detention Center account for 13 of the 44 representatives (30%) at Dartmouth town meeting.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because the Criminal Justice Policy Coalition believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c64	<p>The National Association of Criminal Defense Lawyers (NACDL) 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). NACDL urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The NACDL encourages, at all levels of federal, state and local government, a rational and humane criminal justice policy for America -- one that promotes fairness for all; due process for even the least among us who may be accused of wrongdoing; compassion for witnesses and victims of crime; and just punishment for the guilty. But such justice is hard to achieve when legislators gain constituents based on the number of prisoners the Bureau counts in their district.</p> <p>As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the nation's incarcerated population has more than quadrupled to over two million people. The manner in which this population is counted now has huge implications for the accuracy of the Census thus the fairness of redistricting.</p> <p>When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. In New York after the 2000 Census, for example, seven state senate districts only met minimum population requirements because the Census counted incarcerated people as if they were upstate residents. This is just one example of the recurring systematic shift of political power away from communities most affected by incarceration to communities that host large prisons. In New York this political shift stymied reform of the harsh Rockefeller Drug Laws long after the public came to understand that these mandatory incarceration laws were both ineffective and counterproductive. In addition, communities where prisoners are most likely to come from are not recipients of the economic benefits that exist for communities that are able to count prisoners as their residents. This further impedes the economic development of communities most in need.</p> <p>As you know, four states have passed legislation to adjust their redistricting to count incarcerated people at home for redistricting purposes. But this ad hoc approach is neither efficient nor practical.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place. Because NACDL believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home addresses.</p>
c65	<p>Cover Girls for Change 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Cover Girls for Change is a platform highlighting the voices of models, whose faces are known but whose voices are often overlooked. We seek to advocate for social change through film, documentaries, and social advocacy and to raise the voices of the voiceless. We believe that this includes the over 2 million people incarcerated in the U.S. and their families and communities.</p>

	<p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades as the incarcerated population has expanded at a rate like never before in the history of the U.S. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. Every two weeks for the last 4–5 years, I have been visiting a friend in prison. Thus, I am very familiar with the landscape of the prison system in New York, D.C., and the other places where my friend has been imprisoned. It is so clear from my experience that most prisons are located far away from the communities that incarcerated people are from. When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located.</p> <p>In New York — where Cover Girls for Change is based — after the 2000 Census, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents. For this reason, New York State fortunately passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes.</p> <p>New York is not the only jurisdiction taking action. Three other states (California, Delaware, and Maryland) are taking a similar statewide approach, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>We previously called upon the Census Bureau to change its practice in 2013, and we once again urge you to count incarcerated people as residents of their home address.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities.</p>
c66	<p>On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, we appreciate the opportunity to provide comments in response to the Census Bureau’s Federal Register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015). The Leadership Conference considers a fair and accurate census, and the collection of useful, objective data about our nation’s people, housing, economy, and communities, among the most significant civil rights issues facing the country today. Today, the growth and disbursement of the prison population requires the Census Bureau to update its methodology with respect to the “usual place of residence” of incarcerated people, so that the size and power of the communities that host the prisons are not inflated at the expense of others. Therefore, we urge you to count incarcerated people as members of the community from which they come and not as</p>

members of the community in which they are incarcerated on Census Day.

The Census Bureau counts people in prison as if they were residents of the communities where they are incarcerated at the time of enumeration, even though they remain legal residents of the places they lived prior to incarceration. Because census data are used to apportion political representation at all levels of government, this practice gives extra political influence to people who reside in legislative districts that contain prisons and dilutes the votes cast in all other districts. This vote dilution is particularly extreme for urban and minority communities that have disproportionately high rates of incarceration.

The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million.ⁱ Since then, the nation’s incarcerated population has more than quadrupled to over two million people.ⁱⁱ The manner in which this population is counted now has huge implications for the accuracy of the census and the fair allocation of political representation and governmental resources.

By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 census blocks that are located far from the actual homes of incarcerated people.ⁱⁱⁱ In Illinois, for example, 60 percent of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99 percent of them as if they resided outside of Cook County.^{iv}

When these data are used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. In New York after the 2000 Census, for example, seven State Senate districts only met population requirements because the census counted incarcerated people as if they were upstate residents. For this reason, the New York State Legislature passed legislation to adjust the population data after the 2010 Census to count incarcerated people at their home of record (that is, the place they resided before incarceration) for redistricting purposes.^v

The composition and structure of America’s population and households have changed dramatically in the 225 years since the first census. The census has evolved in response to many of these changes, in order to continue providing an accurate picture of the nation and to help policymakers meet society’s needs. Because The Leadership Conference supports a population count that accurately represents communities, we urge you to count incarcerated people as residents of their pre-incarceration household. We stand ready to work with you to ensure that the voices of the civil and human rights community are heard in this important, ongoing national conversation.

Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place, to reflect enormous demographic shifts, changes in the prison infrastructure, and the urgent needs of communities. If you have any questions about these comments, please contact _____, Managing Policy Director, at _____.

ⁱ NAACP, Criminal Justice Factsheet, available at <http://www.naacp.org/pages/criminal-justice-fact-sheet>.

ⁱⁱ *Id.*

ⁱⁱⁱ Prison Policy Initiative, Detailed Demographics of Correctional Populations Now Available for Nation (Sept. 13, 2011), <http://www.prisonersofthecensus.org/news/2011/09/13/sf1/>.

^{iv} Demos, *Testimony of Ben Peck, Senior Legislative and Policy Associate, Demos Before the National Advisory Committee on Racial, Ethnic and Other Populations of the U.S. Census Bureau on: The Census Count and Prisoners: The problem, the solutions and what the Census can do*, (Oct. 26, 2012), available at <http://www.demos.org/publication/census-count-and-prisoners-problem-solutions-and-what-census-can-do>.

^v Demos and Prison Policy Initiative, *States are Authorized to Adjust Census Data to End Prison-based Gerrymandering and many*

	<i>already do</i> (updated September, 2010), <i>available at</i> http://www.prisonpolicy.org/factsheets.html .
c67	<p>The Pennsylvania Prison Society 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). The Society urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The Prison Society was founded in 1787 and is the oldest prison reform organization in the world. We have continued our mission of humane treatment and justice for over two centuries. We now provide reentry services to men and women incarcerated in Pennsylvania state correctional institutions and county jails. We also provide services to families of inmates. The families often undergo hardships while their loved ones are incarcerated. The neighborhoods they live in also need resources. These communities need support and representation.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again. In Pennsylvania alone, there are over 50,000 men and women in the state system.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because The Pennsylvania Prison Society believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c68	<p>Regarding B. 5. Students; (f) Foreign students living in the U. S. while attending college (living either on-campus or off-campus...):</p> <p>For Census 2020, I suggest changing the wording that pertains to the resident rules for students to include, "...while attending school (either college or high school)....".</p> <p>In Umatilla County, Oregon, we have a boarding school that houses foreign high school students. These students are from other countries, and are attending the boarding school during the school year. The boarding school is their usual place of residence for the school year, which is most of the year.</p> <p>While the numbers of foreign high school students at this boarding school is small (10 boys and 10 girls), there currently is no category in which to count or include these students even though they reside in the U.S. during most of the year. Likely there are other situations similar to the Umatilla County boarding school in other parts of the U.S.</p>
c69	<p>I am writing to you as the Chief of the Population Division in response to the federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015).</p> <p>In the last few Censuses I was counted as if I was a resident of the prison where I was incarcerated, not in Harlem New York City where I</p>

	<p>lived prior to my incarceration. This was not fair to my community, nor to any community in the state that didn't have a prison.</p> <p>It is particularly painful for me, as I was incarcerated for 23 years 11 months and 10 days for a crime I did not commit. Thanks to the efforts of a police officer who investigated the case in his private time, I am now out of prison.</p> <p>Clearly the elected representatives in Upstate New York do not have a desire to help people in their areas get out of prison. I am convinced though, that I could have been freed a lot sooner had I been able to ask for help from the political representatives in Harlem where I lived prior to my incarceration. But these people are already over-burdened, so as a policy they cannot offer assistance to <u>'residents outside their voting district'</u>.</p> <p>Although my situation is not common, it is not unique. I knew of 13 other innocent people during my time in prison. Eleven of them were from minority communities. They had the same experience as me, that is to say, they could not ask for support from the elected representatives in the areas where they lived before they were arrested.</p> <p>As you can see, a population count that accurately counts residents at their home address is very important, so I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p>
c70	<i>This comment submission contains graphics and cannot be displayed in this table. It is available as Appendix Attachment c70.</i>
c71	<p>The Integrated Justice Alliance of New Jersey 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). The Integrated Justice Alliance urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The Integrated Justice Alliance of New Jersey (IJA) is a statewide network working toward a fair and effective criminal justice system: one that promotes public safety and the restoration of individuals and families, protects and safeguards the rights of individuals in state custody, promotes transparency and ensures accountability, and spends taxpayer dollars wisely. Our website: http://www.integratedjusticealliance.org/</p> <p>The IJA is dedicated to ending prison gerrymandering in order to ensure equal representation across our state. In 2011, members of the IJA gave testimony before the Apportionment Commission of New Jersey in Toms River (1-29-2011), Newark (2-9-2011), and Jersey City (2-11-2011) to request that we count incarcerated people fairly as residents of their home communities and not in the communities where they are incarcerated. We also gave testimony on May 14, 2012 before the New Jersey Senate State Government, Wagering, Tourism, and Historic Preservation Committee in support of Senate Bill 1055: Ending Prison-Based Gerrymandering in New Jersey.</p> <p>The IJA was also one of more than 200 signators of a letter to Census Bureau Acting Director Thomas Mesenbourg (of February 14, 2013), requesting that the Census Bureau count incarcerated persons at their home address.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the exponential growth in the prison population of the past 30 years requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p>

	<p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In New Jersey, the state's prison population comes disproportionately from certain counties: Essex County (Newark) is home for less than 9% of the state, but 16% of its incarcerated people; Camden County (Camden) is home for 6% of the state, but 12% of its incarcerated people. Crediting the state's incarcerated population to the census blocks that contain the state's 13 correctional facilities serves to enhance the weight of a vote cast in those 13 districts, while diluting the votes cast in every other district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because the Integrated Justice Alliance of New Jersey believes in a population count that accurately represents all communities, we urge you to count incarcerated people as residents of their home address.</p>
c72	<p>I represent Senate District _____, _____ and submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the nation's population.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. Also, in Missouri, after the 2000 Census, each House district in Missouri should have had 34,326 residents. District 113, which claimed the populations of 2 large prisons, however, had only 30,014 actual residents. This means that the actual population of the district was 10% smaller than the average district in the state.</p> <p>Currently, four states (California, Delaware, Maryland and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state to have to adjust the Census' data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place and keeping with changes in society and population realities. Because democracy relies on a population count that accurately represents communities. I urge you to count incarcerated people as residents of their home address.</p>

c73	<p>I am writing in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations.</p> <p>A lot of people from the city I live in end up in prison, and it's not fair that they get counted as if they were residents of the prison town instead of at home. Giving their political power to people who want to lock up more of our community members just doesn't make sense.</p> <p>Because I believe in a population count that accurately represents my community, I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p>
c74	<p>LatinoJustice PRLDEF submits this Comment in response to the Census Bureau's Federal Register Notice regarding the 2020 Decennial Residence Rule and Residence Situations, 80 FR 28950 (Released May 20, 2015). We write to urge the U.S. Census Bureau to count and enumerate incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>LatinoJustice PRLDEF, originally established as the Puerto Rican Legal Defense and Education Fund (PRLDEF) in 1972, is one of the country's leading nonprofit civil rights public interest law organizations. We work to advance, promote and protect the legal rights of Latinas and Latinos¹ throughout the nation. Our work is focused on addressing systemic discrimination and ensuring equal access to justice in the advancement of voting rights, housing rights, educational equity, immigrant rights, language access rights, employment rights and workplace justice, seeking to address all forms of discriminatory bias that adversely impact Latinas and Latinos.</p> <p>As a civil rights organization, we are directly concerned with how Latinas, Latinos, and other communities of color may be impacted by current Census Residence Rules and Residence Situations, particularly where population counts based on Census Residence Rules are employed by elected and appointed officials in redistricting and apportionment schemes. Our organization has litigated in support of New York's state law in <i>Little v. LATFOR</i>, which we discuss more in detail below. We believe that ensuring equal representation is imperative to the health of the nation, because it allows for a just democratic system and avoids any racially discriminatory effects of prison gerrymandering.</p> <p>Prison gerrymandering occurs when incarcerated people are counted in the facilities where they are temporarily detained, which inevitably misconstrues population demographics for state and local redistricting purposes.² Partisan political interests that control the redistricting process often engage in prison gerrymandering, using captive prison populations to increase partisan representation.</p> <p>By designating, a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African American or Latino into just 5,393 Census blocks that are removed far from the actual homes of incarcerated people.³ In Illinois, for example, 60% of incarcerated people's home residences were in Cook County, yet the Bureau counted 99% of them as if they resided outside Cook County.⁴ When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. The consequences of the Bureau's decision to count incarcerated people in the city or town where a prison facility is located carries long-lasting effects, both in the communities where detained people come from and return to, as well as the communities in which detained people are temporarily held.⁵</p> <p>The Bureau should change its current practice of counting incarcerated people's "usual residence" in state prison facilities to their last primary permanent residence or "usual residence" as identified by those incarcerated for three critical reasons, discussed in detail below.</p> <p><u>First, the current method of counting incarcerated people in communities where a prison facility is located is untenable, because it is not an accurate count of the population.</u></p>

The current use of prisons as a "usual residence" for those detained there misconstrues the actual population sizes of communities across the country and results in inadequate community representation in the redistricting context. Census counts of incarcerated people in prisons as a "usual residence" may lead to illegal gerrymandering in state based apportionment or redistricting, where largely white rural populations are overrepresented and more diverse urban populations are underrepresented⁶ due to the location of the prison itself.

African Americans are incarcerated at a rate about 5 times higher than whites and Latinos are incarcerated at a rate about 2 times higher than non-Latino whites, underscoring the racially discriminatory implications of prison gerrymandering,⁷ which can lead to potential vote dilution. In 2000, African Americans and Latinos only made up a quarter of the general population but represented almost 63% of the incarcerated population in the whole United States.⁸ In 2010, there were 20 counties across the United States where the incarcerated Latino population outnumbered Latinos who were not incarcerated in those same counties –in California, Colorado, Florida, Illinois, Kentucky, Missouri, New York, Pennsylvania, Virginia and West Virginia.⁹ This creates inaccuracies on a large scale that labels counties as "diverse" when they are not, and in fact, the majority of the Latino population detained in these communities is segregated by prison walls from the rest of the population. When state legislatures used this flawed data to draw or apportion legislative districts, they impute Latino political clout and political participation to districts where Latinos in actuality have little to no civic voice.¹⁰

An overwhelmingly large number of Latinos are thus discounted from their communities of origin and enumerated in counties with a very different demographic and geographic profile than their own,¹¹ since most states incarcerate people far from their usual place of residence. In states as populous as New York, Pennsylvania, Illinois, Georgia, Florida and Texas, Latinos are more likely to be locked up in prisons located in communities that remain largely white, non-diverse, and miles apart, both literally and figuratively, from communities in their home counties.¹²

More often than not, the majority of state prison populations housed in rural areas were counted there despite maintaining a prior usual residence in urban metropolitan areas such as New York City, Chicago, Detroit, Los Angeles and Philadelphia—all of which include significant African American and Latino communities.¹³ In 2000, only 25% of New York's state population lived upstate, yet 91% of detained people in state prisons were incarcerated there.¹⁴ In Illinois, 60% of detained people previously resided in Chicago, yet 99% of the prisons were located elsewhere.¹⁵ In California, 30% of incarcerated people hailed from Los Angeles County, but only 3% of them were located there.¹⁶ Forty percent of incarcerated people in Pennsylvania were from Philadelphia, but the city had no state prisons, hence, no people who were detained were counted in Philadelphia.¹⁷

In Michigan, 30% of the state's incarcerated people were from Detroit, but only 11% of the state's cells were located there.¹⁸ The Census Bureau is therefore inaccurately counting the size of the populations in many urban communities that detained people are actually members of, by counting them in the community where the prison is located.

The use of the prison location itself as a "usual residence" for Census population counts is also misleading and results in inaccurate conclusions¹⁹ for apportionment purposes. Some counties were reported to be growing when in fact it was their prison population that was increasing.²⁰ With regard to Latino populations, many counties may report a large number of Latino residents because they have a large Latino population that is incarcerated.²¹ In actuality, the Latino population is overrepresented in counties where they are not residing by choice.²² In turn, they are underrepresented in their actual place of "usual residence" and communities of origin.²³ This creates a high risk for inaccuracies and increases the risk of a distinctively racially discriminatory impact on the representation of African American and Latino communities.²⁴

Second, the current method of counting incarcerated people in communities where a prison facility is located is untenable because it contributes to possible unlawful gerrymandering in violation of the Equal Protection Clause under the Fourteenth Amendment, as well as potential vote dilution.

These outcomes do not appear to comport with the Supreme Court's Fourteenth Amendment equal protection jurisprudence "one person one vote" standard.²⁵ In *Gray v. Sanders*, the Supreme Court held that Georgia's county-unit system was in violation of the Equal Protection Clause because the method of counting votes diluted a person's vote as the county population increased, therefore, rural votes weighed far more than the urban vote.²⁶

The U.S. Supreme Court made clear in *Reynolds v. Sims*, 337 U.S. 533 (1964), that the "one person one vote" standard requires that voting districts contain relatively equal population numbers, so that individual voting power is equalized in accordance to the Fourteenth Amendment.²⁷ In *Wesberry v. Sanders*, the Court established that equal representation for the number of people is a fundamental principal of our government.²⁸ Race, sex, economic, status, or place of residence must not undermine this fundamental principle.²⁹

Given that state and local governments use Census data to redistrict for voting purposes, the current method of counting prisons as a "usual residence" may contribute to the potential violation of the equipopulous "one person, one vote"³⁰ standard, which may also lead to unlawful vote dilution.³¹

Unlawful vote dilution occurs whenever a State minimizes or cancels out the true voting strength of a racial or language minority under the Federal Voting Rights Act of 1965. What triggers the protections of the Act is the existence of disproportionality in the execution of what may otherwise be race-neutral policies. The combination of the Census Bureau's usual residence rule as it exists today along with the racially skewed disproportionate outcomes of many criminal justice systems in the United States could result in minimizing the collective voting strength of Latino and African American communities. For example, on a national scale, 1 out of every 15 African American men are incarcerated, and 1 out of every 36 Latino men in the U.S. are incarcerated.³² Compared to the ratio of 1 of every 106 white men³³ incarcerated, the outcomes of the criminal justice system exacerbate the loss of concomitant political power in minority communities, and therefore dilute minority voting strength.

In New York, this was evident before the state legislature corrected the usual residence policy for state and local redistricting. Latinos in New York State were 18 % of the general population³⁴ but were overrepresented at 22% of the state prison population.³⁵ This raises direct concerns over potential vote dilution of Latino voting strength. Study after study³⁶ has shown that state criminal justice systems in fact carry a racially discriminatory effect where they disproportionately disenfranchise people of color, whether or not such disenfranchisement is intentional. This creates unlawful racial gerrymandering and vote dilution where prison populations reflect the systemic over-incarceration of African American and Latino communities. This practice not only mischaracterizes the demographics of the community and constituents represented, it also reinforces systemic ethnic and racial inequality.³⁷

In addition, nine of the state house districts in Connecticut were able to meet the federal minimum population in Connecticut's 2011 statewide redistricting process by including the prison populations in those areas.³⁸ Connecticut's Enfield District reported 3,300 African American and Latinos residing in their district, when in reality, 72% of the African American and 60% of the Latino populations of that district were incarcerated in the local correctional facilities.³⁹ Hence, African American and Latino voting power was not only potentially diluted, it was largely displaced in these largely rural, white communities from largely African American and Latino communities.⁴⁰

In at least seven state house districts in Connecticut, white residents gained significantly more power because of the minimum 1,000 incarcerated African American and Latino people that were counted in their districts.⁴¹ This in effect gave the largely white population who lived near the prisons extra electoral clout compared to the largely African American and Latino neighborhoods in urban areas of Connecticut that are the home districts of these prisoners. In addition, by counting the incarcerated population in the town's general population, the prison population remains physically and forcefully segregated from the surrounding community.

Prison gerrymandering could also lead to a potential vote dilution claim under Section 2 of the Voting Rights Act of 1965 (VRA).⁴² Voting rights advocates have suggested that in order to bring a Section 2 claim, the plaintiff must specifically indicate a remedy to their claim, and reallocating incarcerated people to their place of prior permanent residence could serve as a Section 2 remedy.⁴³ This could equalize voting in both communities with and without prison facilities because incarcerated people will no longer be misplaced in the location of the prison where they are held. Despite the Ninth Circuit's opinion in *Farrakhan v. Gregoire* that a Section 2 vote dilution challenge under the VRA based on felony disenfranchisement required a showing of intentional discrimination by the state criminal justice system itself,⁴⁴ the U.S. Supreme Court has upheld the Section 2 VRA vote dilution standard to address discriminatory effect as well as discriminatory intent.⁴⁵

Third, it is imperative for the Bureau to change its current method of counting incarcerated people in communities where the prison facility is located, because over 200 counties and municipalities in a majority of states do not count or consider prisons as a "usual residence" in redistricting.

Over 200 counties and cities in a majority of states avoid prison-based gerrymandering through state constitutional provisions and/or state and local legislation.⁴⁶ At last count, 225 of these cities and counties do not count prisons as a "usual residence" for local and state based redistricting and apportionment counts, and instead rely on detained people's usual residence prior to incarceration.⁴⁷

Municipalities in states with the largest Latino populations are amongst the majority, and include municipalities in Arizona, California, Colorado, Connecticut, Florida, Illinois, New Mexico, Nevada, New Jersey, New York, and Texas.⁴⁸ Of these states, Arizona, California, Connecticut, Florida, New York and Texas contain explicit language in their state laws that an incarcerated person's domicile does not change when they are in a state or public prison.⁴⁹ Colorado, Nevada and New York include similar language in their state constitutions.⁵⁰

In New York, in particular, after the 2000 Census, seven state senate districts only met population requirements in state apportionment because the Census counted detained people as if they were upstate residents.⁵¹ The New York State Constitution makes clear that "For the purpose of voting, no person shall be deemed to have gained or lost a residence... while confined in any public prison."⁵² For this reason, New York State passed legislation to adjust the population data after the 2010 Census, to count incarcerated people at their home addresses in state legislative apportionment and redistricting.⁵³

In *Little v. LATFOR*, the Supreme Court of the State of New York in Albany upheld this state law that requires incarcerated people to be reported under their address prior to incarceration.⁵⁴ The Court reasoned that there was nothing in the record that indicated that the incarcerated people had any permanency in the locations of the facilities or that they intended to remain there after their release.⁵⁵ The Court found that the Department of Corrections and Community Supervision decided when and where incarcerated people would be transferred, not the incarcerated people themselves.⁵⁶ There were no records that indicated that the incarcerated people had ties to the communities where they were incarcerated, where they were "involuntarily and temporarily located."⁵⁷

Following the ruling in *Little*, it would be incongruous at best, and erroneous at worst, for the U.S. Census Bureau to count incarcerated people living in the communities where prison and criminal detention facilities are located, because incarcerated people are both *de jure* and *de facto* excluded from participating in the civic life of these communities. People incarcerated for felony convictions, for example, cannot vote in virtually every state in the country due to felony disenfranchisement laws.⁵⁸ California, Florida, Texas, and New York are among the states that disenfranchise people who are serving time in state prisons for felony convictions.⁵⁹ Furthermore, people so detained cannot purchase homes, become employed, or make a living while they are incarcerated.⁶⁰

California and New York, two states with the largest Latino populations,⁶¹ are joined by Delaware and Maryland in taking a statewide approach to avoiding prison gerrymandering, modifying the Census Bureau data to count detained people in their residence prior to their incarceration.⁶² Counting detained people in their prior residence serves not only the ideals of equity and equal protection in democracy, but is also rooted in the understanding that people who are detained are transferred often and incarcerated in distinctly different jurisdictions temporarily.

Most incarcerated people do not choose the location of the facility where they will be incarcerated, nor the length of time they will be incarcerated at that facility.⁶³ The average state prison term is 34 months, and during their sentence, detained people may be transferred to a different facility numerous times, at the state custodial agency's discretion.⁶⁴ In New York, for example, the median time served in a facility for 2007 was seven months.⁶⁵ When the Census Bureau counts detained people where they are temporarily incarcerated, it appears to contradict the Bureau's goal of accuracy in enumeration, because the Bureau is recognizing a temporary, involuntary stay as a "usual residence".⁶⁶ Once detained people complete their sentence, they are not allowed to remain in the facility; they are more likely than not to return to the community where they lived prior to being forcibly removed.⁶⁷

As the most comprehensive data collection system in the United States, the U.S. Census Bureau can improve its accuracy and efficacy by counting incarcerated people in their last primary residence rather than in their facility where they are temporarily detained. Because it is a resource that government agencies at all levels rely on to make vital decisions for all of its communities, it is imperative that the U.S. Census Bureau report all incarcerated persons in their "usual residence" as defined by the persons themselves, or based on the last residence the incarcerated person resided prior to incarceration.⁶⁸ A majority of the states have at least one city or county that favors this change.⁶⁹ The U.S. Census Bureau should follow suit to achieve a more accurate and fair count of the U.S. population by changing its policy.⁷⁰

Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because LatinoJustice PRLDEF believes in a population count that accurately and equitably represents the demographics of diverse communities, we urge the U.S. Census Bureau to count incarcerated and detained people as "usual residents" at their regular or permanent home addresses.⁷¹

¹ As used in this Comment, the terms "Hispanic" or "Latino" are used interchangeably as defined by the U.S. Census Bureau and "refer to a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race." Karen R. Humes, Nicholas A. Jones & Roberto R. Ramirez, *Overview of Race and Hispanic Origin: 2010*, 2010 Census Briefs, 1, 2 (March, 2011), <http://www.census.gov/prod/cen2010/briefs/c2010br02.pdf>.

² See Peter Wagner, Eric Lotke & Andrew Beveridge, *Why the Census Bureau can and must start collecting the home addresses of incarcerated people*, Prison Policy Initiative (February 10, 2006), <http://www.prisonpolicy.org/homeaddresses/report.html>.

³ See *2010 Group Quarters Shapefile*, Prison Policy Initiative, www.prisonersofthecensus.org/data/2010/groupquartersshapefile.html (last visited Jul. 13, 2015).

⁴ Rose Heyer & Peter Wagner, *Too big to ignore: How counting people in prisons distorted Census 2000*, Prison Policy Initiative (April 2004), <http://www.prisonersofthecensus.org/toobig/size.html>.

⁵ *Id.*

⁶ Michelle Davis, *Assessing the Constitutionality of Adjusting Prisoner Census Data in Congressional Redistricting: Maryland's Test Case*, 43 U. Balt. L.F. 35, 60 (2012), citing Prison Policy Initiative & Demos, *The Census Count and Prisons: The Problem, the Solutions and what the Census Can Do* (Oct. 4, 2010), http://www.demos.org/sites/default/files/publications/FACTSHEET_PBG_WhatCensusCanDo_Demos.pdf.

⁷ See Peter Wagner & Daniel Kopf, *The racial geography of mass incarceration*, Prison Policy Initiative (July 2015), <http://www.prisonpolicy.org/racialgeography/report.html>. See also Wagner et al., *Why the Census*, *supra* note 2.

⁸ Heyer & Wagner, *supra* note 4.

⁹ Wagner & Kopf, *supra* note 7.

¹⁰ *Id.*

¹¹ Heyer & Wagner, *supra* note 4.

¹² *Id.*

¹³ See Nathaniel Persily, *The Law of the Census: How to Count, What to Count, Whom to Count, and Where to Count Them*, 32 Cardozo L. Rev. 755, 787 (2011) ("[i]n several states, such as New York and Illinois, the prison population is heavily minority and from urban centers, while prisons are located in rural, largely white counties.").

¹⁴ Heyer & Wagner, *supra* note 4.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Heyer & Wagner, *supra* note 4.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ See Persily, *supra* note 13, at 787 ("[i]n several states, such as New York and Illinois, the prison population is heavily minority and from urban centers, while prisons are located in rural, largely white counties.").

²⁵ See, e.g., *Gray v. Sanders*, 372 U.S. 368, 379 (1963) ("How then can one person be given twice or ten times the voting power of another person in a state-wide election merely because he lives in a rural area or because he lives in the smallest rural county? Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote [...]. This is required by the Equal Protection Clause of the Fourteenth Amendment"); *Reynolds v. Sims*, 377 U.S. 533, 566 (1964).

²⁶ *Gray*, 372 U.S. at 379.

²⁷ *Reynolds*, 377 U.S. at 566.

²⁸ *Wesberry v. Sanders*, 376 U.S. 1, 84 S.Ct. 526 (1964).

²⁹ *Id.*

³⁰ U.S. Const. amend. XIV § 1; U.S. Const. amend. XV § 1; *Reynolds*, 372 U.S. at 566.

³¹ See Peter Wagner, *Breaking the Census: Redistricting in an Era of Mass Incarceration*, 38 Wm. Mitchell L. Rev. 1241, 1244 (2012), <http://web.wmitchell.edu/law-review/wp-content/uploads/Volume38/documents/2.Wagner.pdf>; see also Davis, *supra* note 6, at 38 (citing Dale E. Ho, *Captive Constituents: Prison-Based Gerrymandering and the Current Redistricting Cycle*, 22 Stan. L. & Pol'y Rev. 355, 388 (2011)).

³² This data pertains to African American, Latino and white men of ages 18 and older. African American men ages 20-34 have a much higher rate of 1 in 9. The PEW Center on the States, *One in 100: Behind Bars in America 2008*, 6, 40 (February 2008), http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pes_asset_s/2008/one20in20100pdf.pdf.

³³ *Id.*

³⁴ Sharon R. Ennis, Merays Rios-Vargas, & Nora C. Albert, *The Hispanic Population: 2010*, 2010 Census Briefs, 1, 6 (May 2011), <http://www.census.gov/prod/cen2010/briefs/c2010br-04.pdf>.

³⁵ These numbers reference the percentage of Latinos in prisons and jails. See Leah Sakala, *Breaking Down Mass Incarceration in the 2010 Census: State-by-State Incarceration Rates by Race/Ethnicity*, Prison Policy Initiative (May 28, 2014), http://www.prisonpolicy.org/graphs/2010percent/NY_Hispanics_2010.html.

³⁶ Several major studies recognize the growing Latino population affected by disenfranchisement, approaching the rates suffered by African American communities. See Christopher Uggen, Sarah Shannon & Jeff Manza, *State-Level Estimates of Felon Disenfranchisement in the United States, 2010*, The Sentencing Project, 1, 10 (July 2012), http://sentencingproject.org/doc/publications/fd_State_Level_Estimates_of_Felon_Disen_2010pdf; see also Nancy E. Walker, Francisco A. Villarruel, J. Michael Senger, & Angela M. Arboleda, *Los Opportunities: The Reality of Latinos in the U.S. Criminal Justice System*, National Council of La Raza, (2004), http://www.nclr.org/images/uploads/publications/file_Lost_Opportunities_PDF.pdf; Marisa J. Demeo & Steven A. Ochoa, *Diminished Voting Power in the Latino Community: The Impact of Felony Disenfranchisement Laws in Ten Targeted States*, MALDEF (December, 2003), http://maldef.org/assets/pdf/FEB_I_8-LatinoVotingRightsReport.pdf.

³⁷ See sources cited *supra* note 36.

³⁸ *Prison Gerrymandering in Connecticut*, Prison Policy Initiative & Common Cause Connecticut (April 9, 2014), <http://www.prisonersofthecensus.org/factsheets/ct/ct.pdf> (hereinafter "*Prison Gerrymandering*").

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Davis, *supra* note 6 at 38 (citing Ho, *Captive Constituents*, at 388).

⁴³ *Id.*

⁴⁴ *Farrakhan v. Gregoire*, 623 F.3d 990, 992 (9th Cir. 2010).

⁴⁵ See *Thornburg v. Gingles*, 478 U.S. 30, 44. (1986) (citing S.REP.NO.97-417 at 2, 27-29, 36); see also *White v. Regester*, 412 U.S. 755, 767-70 (1973) (establishing the "results"-based standard Congress intended to follow in establishing the civil VRA cause of action); S.REP. NO. 97-417, 97TH CONG. 2ND SESS. at 28 (1982) (repudiating the Court's intent requirement in *Mobile v. Bolden*, 446 U.S. 55, 60-61 (1980)).

⁴⁶ See A.R.S. § 16-593 (2015) (Arizona law); Cal. Elec. Code § 21003 (2015) (California law); Conn. Gen. Stat. § 9-14 (2014) (Connecticut law); Fla. Stat. § 101.045 (2015) (Florida law); N.M. Stat. Ann. § 1-1-7 (West 2015) (New Mexico law); Nev. Rev. Stat. Ann. § 293.487 (2013) (Nevada law); N.Y. Const. art. II, § 4 (New York Constitution); N.Y. Elec. Law § 5-104 (McKinney 2015); N.Y. Correct. Law § 71(8) (McKinney 2015) (New York laws); N.C. Gen. Stat. § 163-57 (2014) (North Carolina law); Tex. Elec. Code Ann. § 1.015 (West 2013) (Texas law); *Local Governments that Avoid Prison-based Gerrymandering* Prison Policy Initiative, May 29, 2015, <http://www.prisonersofthecensus.org/local/> (hereinafter "*Local Governments*").

⁴⁷ *Local Governments*, *supra* note 46.

⁴⁸ Emus et. al, *supra* note 34.

⁴⁹ See A.R.S. § 16-593 (2015) (Arizona law); Cal. Elec. Code § 21003 (2015) (California law); Conn. Gen. Stat. § 9-14 (2014) (Connecticut law); Fla. Stat. § 101.045 (2015) (Florida law); N.M. Stat. Ann. § 1-1-7 (West 2015) (New Mexico law); Nev. Rev. Stat. Ann. § 293.487 (2013) (Nevada law); N.Y. Elec. Law § 5-104 (McKinney 2015); N.Y. Correct. Law § 71(8) (McKinney 2015) (New York laws); N.C. Gen. Stat. § 163-57 (2014) (North Carolina law); Tex. Elec. Code Ann. § 1.015 (West 2013) (Texas law).

⁵⁰ Colo. Const. art. VII, § 4 (Colorado constitution); Nev. Const. art. II § 2 (Nevada Constitution); N.Y. Const. art. II, § 4 (New York Constitution).

⁵¹ Peter Wagner, Aleks Kajstura, Elena Lavarreda, Christian de Ocejio & Sheila Vennell O'Rourke, *50 State Guide: Fixing prison-based gerrymandering after the 2010 Census: New York* Prison Policy Initiative (March 2010) (hereinafter "*50 State Guide*"), <http://www.prisonersofthecensus.org/50states/NY.html>.

⁵² N.Y. Const., Art. II, § 4.

⁵³ Wagner et al., *50 State Guide*, *supra* note 51.

⁵⁴ *Little v. LATFOR*, No. 2310/2011 at 7 (N.Y. Sup. Ct., Albany Cnty. Dec. I, 2011).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Maine and Vermont are the only two states that do not allow incarcerated people to vote. The Sentencing Project, *Felony Disenfranchisement Laws in the United States*, 4, 4 (April, 2014), http://sentencingproject.org/doc/publications/fd_Felony%20Disenfranchisement%20Laws%20in%20the%20US.pdf.

⁵⁹ *Id.*

	<p>⁶⁰ Wagner et al., <i>Why the Census</i>, <i>supra</i> note 2.</p> <p>⁶¹ Ennis et. al, <i>supra</i> note 35.</p> <p>⁶² <i>Local Governments</i>, <i>supra</i> note 46.</p> <p>⁶³ Wagner et al., <i>Why the Census</i>, <i>supra</i> note 2.</p> <p>⁶⁴ <i>Id.</i></p> <p>⁶⁵ Dan Bernstein, <i>HUB SYSTEM: Profile of Inmate Population Under Custody on January 1, 2008</i>, New York State Department of Correctional Services, 1, 11 (March, 2008), http://www.doccs.ny.gov/Research/Reports/2008/Hub_Report_2008.pdf.</p> <p>⁶⁶ Wagner et al., <i>Why the Census</i>, <i>supra</i> note 2.</p> <p>⁶⁷ <i>Id.</i></p> <p>⁶⁸ <i>Prison Gerrymandering</i>, <i>supra</i> note 38.</p> <p>⁶⁹ <i>Local Governments</i>, <i>supra</i> note 46.</p> <p>⁷⁰ <i>Id.</i></p> <p>⁷¹ LatinoJustice PRLDEF is grateful for the research and writing assistance provided by Helen Martinez of the Class of 2016, Northeastern University School of Law and 2015 Summer Legal Intern at LatinoJustice PRLDEF, in the preparation of this Comment.</p>
c75	<p>I represent the _____ District in _____, and submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the nation's population.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state to have to adjust the Census' data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because democracy relies on a population count that accurately</p>

	represents communities, I urge you to count incarcerated people as residents of their home address.
c76	<p>The Campaign for Youth Justice (CFYJ) 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>CFYJ is a national organization focused entirely on ending the practice of prosecuting, sentencing, and incarcerating youth under the age of 18 in the adult criminal justice system. The strategic goals of CFYJ are to reduce the total number of youth prosecuted in the adult criminal justice system and to decrease the harmful impact of trying youth in adult court.</p> <p>We strongly believe that any movement must involve those who are most impacted by the laws and policies. Thus, we seek to empower those affected by encouraging them to use their voices and experiences to affect meaningful change. Therefore, we are particularly troubled by the Census Bureau's interpretation of the residence rule; counting incarcerated people as if they were residents of the prison locations rather than residents of their communities hurts our democracy and further disempowers our communities.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place. We want to ensure equal representation for all communities so that those most impacted by youth incarceration can have an equal voice in setting criminal justice policy, and so we urge you to count incarcerated people as residents of their home address.</p>
c77	<p>The prison population has increase dramatically in the last decade thus incarcerated people should be counted in their home districts, not where the prison is located. If this is done, extra representation is given to the communities that house the prisons. Especially African-American and Latinos communities are then under counted because of the high number of minorities in the prison population.</p> <p>Gerrymandering of legislative districts is bad enough as it is, we do not need further under representation.</p>
c78	<p>My comment is in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, 80 FR28950 (May 20, 2015).</p> <p>I urge you to count incarcerated people at their home address, rather than at the particular facility that they are located in on Census Day. By designating a prison cell as a residence in the 2010 Census, the Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of these incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>North Carolina has three of the top ten most gerrymandered districts (1st, 4th, and 12th) in the country. Counting prisoners as local residents only gives more unethical power to the politicians.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Census Bureau</p>

	<p>strives to count everyone in the right place. In keeping with changes in society and population realities, I believe in a population count that accurately represents communities. This would be accomplished by counting incarcerated people as residents at their home address.</p>
c79	<p>Project Vote submits this comment in response to the Census Bureau’s Federal Register notice entitled, 2020 Decennial Census Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015), Docket No. 150409353-5353. Project Vote urges you to count incarcerated people at their home address, rather than at the particular facility at which they happen to be located on Census day.</p> <p>Project Vote is a national nonpartisan, non-profit organization dedicated to building an electorate that accurately represents the diversity of America’s citizenry. Project Vote takes a leadership role in nationwide voting rights and election administration issues, working through research, litigation, and advocacy to ensure that every eligible citizen can register, vote, and cast a ballot that counts.</p> <p>Because African-Americans and Latinos are disproportionately incarcerated, counting incarcerated people in the wrong location is particularly detrimental to proper representation of African-American and Latino communities. These communities are already historically underrepresented in the electorate and prison gerrymandering only contributes to this problem. Thus by designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks¹ that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located.</p> <p>Various states, including New York, California, Delaware, and Maryland, have taken statewide action to end prison gerrymandering when drawing districts, and other localities have made similar efforts.² But this ad hoc approach cannot be implemented universally. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so in 2014 it passed and sent the Census Bureau a resolution urging the Bureau to count incarcerated persons at their home addresses.³ A national approach is needed to ensure proper representation of communities.</p> <p>Thank you for this opportunity to comment on the 2020 Decennial Census Residence Rule and Residence Situations. Because Project Vote believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p> <p>¹ Prison Gerrymandering Project, <i>Detailed Demographics of Correctional Populations Now Available for Nation</i> (Sept. 13, 2011), http://www.prisonersofthecensus.org/news/2011/09/13/sf1/ (last visited July 7, 2015).</p> <p>² Prison Gerrymandering Project, Legislation, http://www.prisonersofthecensus.org/legislation.html (last visited July 7, 2015).</p> <p>³ See The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (188th Session, Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014), <i>available at</i> http://www.prisonersofthecensus.org/resolutions/MA-resolution-081414.pdf.</p>
c80	<p>I am writing to urge you to change the residence designation of prison inmates from the place where they are incarcerated to the place of last known residence before incarceration, when counting for the 2020 U.S. Census.</p> <p>Counting prisoners where they are incarcerated, as opposed to their last residence, distorts the one-man, one-vote rule which is a linchpin of our</p>

	<p>decennial redistricting. Counting prisoners in a large institution as resident of the area where the prison is located artificially increases the representational strength of the prison area, while diluting the representational strength of the areas where the prisoners hail from. In Oregon, the Snake River Correctional Institution in the extreme eastern part of the state gives extra representational power to residents in those legislative and congressional districts. The prisoners are in this area only temporarily, have no connection to the community and cannot vote. Yet they are counted as part of the population for purposes of redistricting.</p> <p>I urge you to adopt a nationwide policy of counting prisoners as residents of their last area before incarceration to end this distortion of our redistricting process.</p>
c81	<p>Prison Action Network is submitting 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).</p> <p>We suggest the Census bureau revise their rules because the way prisoners are counted now results in unequal representation in the political process.</p> <p>The needs of citizens in the neighborhoods from which prisoners were taken are not the same as those in the districts where they are counted. It makes no sense to include incarcerated people in their prison's district. Why include people who are temporary and whose needs are not considered by the officials elected to represent the district?</p> <p>It also dilutes the voting power of those located outside the districts with prisons. For instance, in New York, where we are located, each Senate district should have 306,072 residents. District 45, which claims the populations of thirteen large prisons, however, has only 286,614 actual residents. Crediting all of New York's incarcerated people to a few locations, far from home, enhances the political clout of the people who live near prisons, while diluting voting power of all other New Yorkers.</p> <p>That's why NY is taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>Why not make it easier and move that responsibility to the Census Bureau that has decades of experience?</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Prison Action Network believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c82	<p>I serve as the State Representative for _____ Legislative District (including _____), and I would like to submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p>

	<p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into a handful of Census blocks far from their actual homes. In my state, for example, 60% of incarcerated people have their home residences in _____ County, yet the Bureau counted 99% of them as if they resided outside _____ County.</p> <p>I have long supported counting incarcerated people at home, and have been working on a solution for _____ since 2009, when I introduced the Prisoner Census Adjustment Act in the _____ and again in the _____ proposing that for purposes of creating election districts and redistricting, requires that State and local governmental bodies use census figures adjusted to reflect the pre-incarceration addresses of persons imprisoned in State or federal facilities in _____; this measure passed the House, but stalled in the Senate. As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the state's population.</p> <p>When we use this data for redistricting, we shift political power to people who live near prisons. This needs to be corrected. The legislation I introduced would adjust redistricting data to count incarcerated people where they live. The bill applies to state, county, and municipal redistricting data, ensuring that prison populations are not used to skew political power in state or local government. And although the bills I introduced in _____ specifically had no impact on funding formulas, I am confident that our state's aid distribution is sophisticated enough that a methodology change at the Bureau will not have any significant impact on our funding streams. (For example, _____ highway funds already separately fund _____, so that no change in the population count would shift highway funds from _____ to _____.)</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are implementing a state- wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts, including at least 22 here in _____.</p> <p>But this ad hoc approach is not efficient. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state or county to have to adjust the Census' data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because democracy relies on a population count that accurately represents communities, I urge you to count incarcerated people as residents of their home address.</p>
c83	<p>The census claims to report where people reside but its definition of "reside" is amiss. It's inappropriate to say that a person held against his will resides in the jail.</p> <p>Such a claim has implications for elections.</p> <p>Iowa law creates election districts based on population. But if the population includes prisoners, they should not count as residents. They cannot vote.</p> <p>Anamosa, Iowa once found itself with an election district comprised of so many prisoner "residents" that practically no one in the district could vote. Yet they were supposed to elect a member of the city council. Anamosa had to eliminate districts altogether to get around this problem</p>

caused by the Census Bureau.

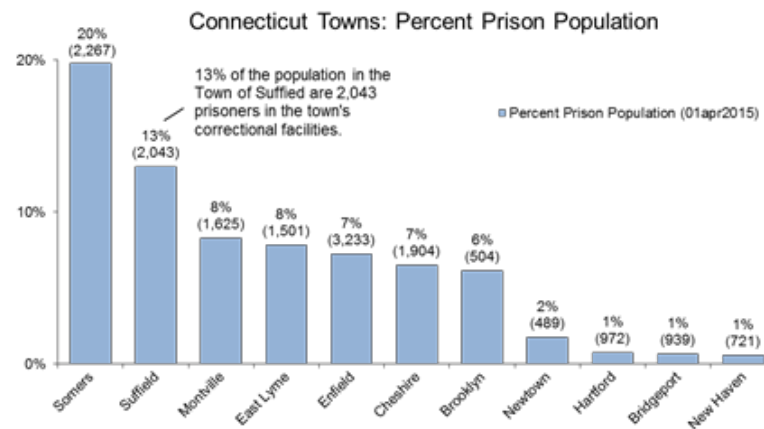
My own state senate district is also home to a pair of state prisons. Why do those prisoners count as residents here when they cannot vote? With so many Americans in prison this can lead to a lot of distortion.

Some changes should be made in this practice.

c84 The Latino and Puerto Rican Affairs Commission (LPRAC) was created by an act of the Connecticut General Assembly in 1994. In essence, we are a 21 member non-partisan commission mandated by state law to make recommendations to the legislature and the Governor of Connecticut for new or enhanced policies that will foster progress in achieving health, safety, educational success, economic self-sufficiency, and end discrimination for the Latino community in our state. LPRAC conducts educational and outreach activities to strengthen connections across the state's Latino population, establishing innovative partnerships, listening to stakeholders on issues particularly impacting the Latino population, and conducting wide-ranging socioeconomic research to fill gaps in the state's data collection and provide policy makers with comprehensive, up-to-date statistical information from which to develop effective and responsive laws, regulations, policies and procedures.

We strongly recommend that residence rules should be changed in the 2020 census for *People in Correctional Facilities for Adults* and *People in Juvenile Facilities*. The current residence rules and residence situations adversely affect the political representation of Hispanics in Connecticut.

For example, in the town of Somers, CT, the prison population accounts for 20 percent of the total population.¹ Furthermore, 24 percent of prisoners in Somers are Hispanic.² There are approximately 535 Hispanic prisoners in Somers but only 150 Hispanic residents who are not in the prison population.³ Consequently, the Hispanic prison population in Somers outnumbers Hispanic residents by over 250 percent. Furthermore, most of the Hispanic prisoners in Somers come from urban areas such as Hartford and Bridgeport, while Somers is a predominately-white rural town.



Because of the current practice of counting prisoners at their prison location, political representation for residents of Somers is **artificially increased** when legislative district boundaries are drawn for state senators and representatives. In order to stop this skewing of political representation, we ask that the residence rules and residence situations for *People in Correctional Facilities for Adults* be changed as

	<p>follows:</p> <ul style="list-style-type: none"> (a) People in correctional residential facilities on Census Day: Prisoners with a household residence in Connecticut should be counted at the location of their household residence. Prisoners with a household residence outside Connecticut should be counted at the correctional residential facility. (b) People in federal detention centers on Census Day: Prisoners with a household residence in Connecticut should be counted at the location of their household residence. Prisoners with a household residence outside Connecticut should be counted at the federal detention center. (c) People in federal and state prisons on Census Day: Prisoners with a household residence in Connecticut should be counted at the location of their household residence. Prisoners with a household residence outside Connecticut should be counted at the location of the federal or state prison. (d) People in local jails and other municipal confinement facilities on Census Day: Prisoners with a household residence in Connecticut should be counted at the location of their household residence. Prisoners with a household residence outside Connecticut should be counted at the location of the local jail or the municipal confinement facility. <p>For <i>People in Juvenile Facilities</i>, residence rules should be similarly changed as follows:</p> <ul style="list-style-type: none"> (a) People in correctional facilities intended for juveniles on Census Day: Juveniles with a household residence in Connecticut should be counted at the location of their household residence. Juveniles with a household residence outside Connecticut should be counted at the correctional facility. (b) People in group homes for juveniles (non-correctional) on Census Day: Juveniles with a household residence in Connecticut should be counted at the location of their household residence. Juveniles with a household residence outside Connecticut should be counted at the group home. (c) People in residential treatment centers for juveniles (non-correctional) on Census Day: Juveniles with a household residence in Connecticut should be counted at the location of their household residence. Juveniles with a household residence outside Connecticut should be counted at the residential treatment center. <p>These recommended changes to residence rules and residence situations will <i>not affect</i> congressional reapportionment; however, it will end the existing over-representation in state legislatures of communities with group quarters such as correctional and juvenile facilities. Furthermore, in Connecticut most of the communities with these types of facilities have a predominately-white population while the prison and juvenile facilities located in these communities are disproportionately Hispanic. These suggested changes in residence rules and residence situations will end the current dilution of political representation in Connecticut's predominately-Hispanic urban areas.</p> <p>¹ ACS 2013 5yr B01001 ² CT Dept. of Corrections April 2015 ³ ACS 2013 5yr B11002I</p>
c85	<p>Thank you for this opportunity to respond to the Bureau's Notice, seeking comments on the Bureau's 2010 Census Residence Rule and Residence Situations (80 FR 28950, dated May 20, 2015). The League of Women Voters of Virginia urges a change to Rule 13, People in Correctional Facilities for Adults, due to the impact it has on voter representation and on the work of the League to protect voting rights, ensure fair and equal representation, and promote accurate redistricting.</p> <p>The Bureau's current policy, as reflected in Rule 13, has the effect of improperly inflating the true population of a county or state district. Counting prisoners as if they are residents of the prison location effectively gives greater representation to people who happen to live in</p>

	<p>districts that contain prisons. Often those prisoner counts are in the hundreds and at times in excess of one thousand per prison. Thus, prisoners, whose home residences are in cities and towns scattered across the state, are concentrated and counted in just one block. The result: a county supervisor representing a district with a prison will have fewer actual constituents in his or her district than a legislator in an adjoining district that has no prison. This results in an unfair diluted representation for residents of the district with no prison.</p> <p>Prisoner home addresses are in the communities they come from and most often typically return to. While incarcerated prisoners in Virginia cannot vote, they do retain affiliation with their home communities because their families, friends and roots are in their home area. Prisoners in one state in this country who can vote while incarcerated must do so by absentee ballot, using their home address, not their prison address. In no sense can a prison be considered a home.</p> <p>Currently, Virginia's inmate population in state and federal prisons is over 30,000. Those prisons are located predominately in rural areas where local districts experience the greatest impact when redistricting. During the 2011 decennial redistricting in Virginia, the prison populations identified by the Census Bureau were all counted at their prison locations for state House and Senate districts. This resulted in skewed representation at the state legislature. People incarcerated in state and federal prisons located in State House District 75, for example, accounted for over 12% of the district's population as reported by the Census in 2010. This means that residents of District 75 were given more voting power in the Legislature than any other resident in the state.</p> <p>Some Virginia county governments have sought to avoid this kind of undemocratic outcome. Lack of uniformity prevails, however, in the way prisoner counts are used for redistricting in local jurisdictions. Six counties adjust the Census data and do not include prisoner counts when drawing their supervisors' districts. Eighteen other counties in Virginia use Census counts and include prison populations when they redistrict, leaving them with inaccurate population counts upon which to draw boundaries.</p> <p>This hodgepodge manner in which census data is used during the redistricting process at the local level strikes at the heart of fairness in electoral representation. Counting prisoners uniformly at their home addresses would solve that problem.</p> <p>For all of these reasons, the League of Women Voters urges the Bureau to change Rule 13 and count prisoners at their true home addresses in 2020 so state and local districts can be drawn accurately, consistently, and fairly during redistricting.</p>
c86	<p>The Tribal Law Journal of the University of New Mexico School of Law writes in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations.</p> <p>As a premier academic and legal journal, we take an interest in the accuracy of the methodology that the U.S. Census Bureau uses to count the U.S. population. Our authors often rely on population data offered by the U.S. Census Bureau in their articles. In turn, members of the legal profession depend on our articles to support advocacy efforts, lawmaking, rulemaking, legal strategy, and jurisprudence.</p> <p>It has come to our attention that the US Census Bureau's 2010 Residence Rule and Residence Situations skews the accuracy of the U.S. Census data by counting incarcerated people at the facilities that they are confined in, rather than at their home addresses, on Census day. By designating a prison cell as a residence in the 2010 Census, the Census Bureau located a population that is disproportionately male, urban, and Black, Native American or Latino into Census blocks far from their homes. This inflates the apparent size of the towns of people who live near prisons. When this data is used in submissions to our publications, the reliability of important scholarship is risked.</p> <p>More worrisome, when used for redistricting, the 2010 U.S. Census deprives political power from those communities, including sovereign tribal nations, where a disproportionate amount of people are arrested and imprisoned away from home. Members of our journals identify with those communities.</p>

	<p>Because we believe in a population count that accurately represents our Nation, we urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Thank you for your consideration.</p>
c87	<p>The Drug Policy Alliance 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). The Drug Policy Alliance urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The Drug Policy Alliance is the nation’s leading organization promoting drug policies grounded in science, compassion, health and human rights. We work to ensure that our nation’s drug policies no longer arrest, incarcerate, disenfranchise and otherwise harm millions – particularly young people and people of color who are disproportionately affected by the war on drugs. Prison gerrymandering is one of the most troubling ways that our current policies discriminate against communities worst harmed by the war on drugs.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million but since then, the nation’s incarcerated population has more than quadrupled to over two million people. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Illinois, for example, 60% of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99% of them as if they resided outside Cook County.</p> <p>When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. In New York after the 2000 Census, for example, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents. For this reason, New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes.</p> <p>New York State is not the only jurisdiction taking action. Three other states (California, Delaware, and Maryland) are taking a similar state-wide approach, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p>

	<p>The Drug Policy Alliance is concerned that the Bureau’s current method of counting incarcerated people is inaccurate. We share the following two examples of specific inaccuracies flowing from the Bureau’s current method of counting incarcerated persons as follows: Consider a statistic from New York, where the upstate region has steadily been losing population: in the 2000 Census, almost one-third of the persons credited as having “moved” into upstate New York during the previous decade were persons sentenced to prison terms in upstate prisons. Such false migratory patterns can wreak havoc on seemingly sound policy decisions. In Texas, in two legislative districts drawn after 2000, 12% of the population consisted of incarcerated persons.</p> <p>We supported the passage of New York’s law ending prison gerrymandering. On the national front, we have also previously called upon the Census Bureau to change its practice in a 2013 letter submitted along with 209 other organizations.</p> <p>So we thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because the Drug Policy Alliance believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c88	<p>The Voting Rights and Civic Participation Project and the Racial Justice Project at New York Law School submit this comment in response to the Census Bureau’s Federal Register notice regarding the Residence Rule and Residence Situations, 80 Fed. Reg. 28950 (May 20, 2015). We urge the Bureau to change the “usual residency” rule to count incarcerated people at their home address, rather than at the correctional facility where they are located on Census Day.</p> <p>Under the current rule, the Bureau counts people in prison as residents of their prison cells rather than their home communities. Based on this census data, incarcerated individuals are grouped with non-incarcerated individuals living in the surrounding community to form legislative districts. However, the vast majority of people in prison cannot vote and they have no ties to the local community beyond being sent there by the Department of Corrections.¹ Consequently, people in prison become “ghost constituents” to whom the legislator from the district has no connection or accountability, but whose presence in the prison allows the legislator’s district to exist. The voting strength of the actual constituents who live adjacent to the prison is unfairly inflated simply because of their proximity to a correctional facility.</p> <p>The inverse to this skew in the prison districts is the erosion of voting strength in the home communities – often located many miles away – to which most incarcerated individuals return.² Every person counted in prison on Census Day is one fewer resident counted in the home community. The result is fewer voices and fewer votes to demand accountability and representation by local officials. As the prison districts artificially inflate, the representation of home communities diminishes and declines. A similar imbalance occurs between neighboring districts. A district that contains a prison will have inflated voting strength compared to a neighboring district without a prison, creating inequalities between residents of neighboring communities.</p> <p>The home communities that are disproportionately impacted by the current usual residency rule are largely urban communities of color. Aggressive policing tactics in recent decades have targeted minority neighborhoods across the country. Because of high incarceration rates, these neighborhoods lose significantly more residents than other neighboring districts, the impact of which is felt for decades. Losing residents means losing political power.³</p> <p>In 2010, New York and Maryland were the first states in the country to pass laws to correct the skew caused by the Bureau’s current “usual residency” rule. Under the 2010 laws, officials in New York and Maryland undertook the process to remove each individual who was incarcerated in state prison on April 1, 2010 from their prison district and reallocate that person back to his home address for purposes of drawing new legislative districts.</p> <p>Professor Erika Wood’s recent analysis of how Maryland and New York implemented their new laws explains in detail the process each</p>

state undertook to reallocate each incarcerated person back to his or her home community, and provides detailed information about the specific steps each state took to implement these new laws.⁴ The report details the challenges each state faced, including legal disputes and data deficiencies, and the steps taken to meet and overcome those challenges.

While Maryland and New York were successful in correcting the imbalance caused by the current policy, doing so was required significant effort, hours and dollars. Passing and implementing the Maryland and New York laws involved multiple agencies and actors, including legislators and their staff, government agencies, the Attorneys General's offices, private software companies and consultants, and outside advocacy organizations. In researching this process, including interviews with dozens of officials in each state, it became clear that there was widespread consensus among officials in both states that the most effective way to correct the imbalance caused by the current practice, is for the Bureau to change its usual residence rule to count people in prison as residents of their home communities rather than their prison cells.

Professor Wood's analysis resulted in the following specific recommendations for the Bureau:

1. Update the interpretation of the Usual Residency rule to ensure that incarcerated persons are allocated to their home residence rather than at the location of a correctional facility. The Bureau should consult with stakeholders, including redistricting experts, elections officials, corrections officials, criminal justice advocates, and others to develop the best strategies and data choices for meeting this goal.
2. Consider using "self-enumeration" data wherever possible to tabulate incarcerated people. Allowing incarcerated individuals to complete and submit their own Census forms would allow them to identify their race and ethnicity as well as enable them to directly list their current home address.
 - Conduct a self-enumeration pilot study in select correctional facilities to develop protocols and test the utility of inmate-completed forms, as suggested by the Bureau's 2013 Ethnographic Study.
 - Where administrative records are to be used to tabulate incarcerated people, rely on agency-level administrative records collected by the Federal Bureau of Prisons and state correctional agencies – as suggested by the Bureau's 2013 *Ethnographic Study of the Group Quarters Population in the 2010 Census: Jails and Prisons*⁵ – rather than collecting this data on the individual facility level.
 - Consult with the Bureau of Justice Statistics to identify best practices for designing effective systems for collecting accurate and reliable state corrections data.⁶
 - Assure that state correctional agencies are aware of the Office of Management and Budget's (OMB) Standards for the Classification of Federal Data on Race and Ethnicity, and advise state correctional agencies on how data systems can be structured to facilitate data collection consistent with these standards. Encouraging states to use the OMB standards would eliminate inconsistencies in how race and ethnicity data are recorded.⁷
3. Conduct experiments using existing state corrections data to evaluate how these administrative records, in their current form, would impact Census Bureau workflow and quality standards, as well as to develop protocols for addresses that cannot be successfully geocoded.
4. Consider how to allocate persons in the limited circumstances where an individual's home address is unknown or nonexistent. For example, the Bureau may have to tabulate a limited number of people at the correctional facility where there is insufficient home address information.
5. Explore whether the recommendation of the 2013 Ethnographic Study of the Group Quarters Population in the 2010 Census: Jails and Prisons to establish "correctional specialists" to coordinate the Bureau's enumeration of people confined in correctional facilities will improve efficiency and standardization.⁸

	<p>As long as the Bureau continues to count incarcerated individuals as residents of their prison cells, the demographic data of their home communities will continue to be skewed and incomplete, resulting in long-term disenfranchisement and disempowerment. To correct this injustice, we urge the Bureau to amend its usual residency rule to count incarcerated individuals as residents of their home communities.</p> <p>¹ Only Maine and Vermont allow people to vote while in prison. See Erika Wood, Brennan Center for Justice, <i>Restoring the Right to Vote</i> 3 (May 11, 2009), available at http://www.brennancenter.org/publication/restoring-right-vote. In those two states, incarcerated people maintain residency in their home communities for voting purposes and vote in their home district by absentee ballot; they do not vote in the district where they are incarcerated. See Vt. Stat. Ann. tit. 17, § 2122(a); Me. Rev. Stat. Ann. tit. 21-A, § 112(14).</p> <p>² See <i>Fletcher v. Lamone</i>, No. 1:11-cv-03220, at 18 (D. Md. Dec. 23, 2011), <i>aff'd</i> 133 S. Ct. 29 (2012) (mem.) (citing Nancy G. La Vigne <i>et al.</i>, <i>A Portrait of Prisoner Reentry in Maryland</i> 33 (Urban Institute 2003) available at http://www.urban.org/UploadedPDF/410655_MDPortraitReentry.pdf which found that most Maryland prisoners returned to Baltimore after their release from prison).</p> <p>³ See Erika L. Wood, <i>One Significant Step: How Reforms to Prison Districts Begin to Address Political Inequality</i>, 49 U. MICH. J. LAW REF. 101 (2015) (forthcoming).</p> <p>⁴ See Erika L. Wood, <i>Implementing Reform: How Maryland and New York Ended Prison Gerrymandering</i> (Demos 2014), available at http://www.demos.org/publication/implementing-reform-how-maryland-new-york-ended-prison-gerrymandering.</p> <p>⁵ Barbara Owen and Anna Chan, <i>Ethnographic Study of the Group Quarters Population in the 2010 Census: Jails and Prisons</i> 2-3 (2013), available at http://www.census.gov/srd/papers/pdf/ssm2013-06.pdf.</p> <p>⁶ The Bureau of Justice Statistics conducted a survey of state correctional data systems in 1998, finding that the majority of state prison systems had mostly complete electronic records of home addresses. See Bureau of Justice Statistics <i>et al.</i>, <i>State and Federal Corrections Information Systems: An Inventory of Data Elements and an Assessment of Reporting Capabilities</i>, Bureau of Justice Statistics (Aug. 1998), available at http://www.bjs.gov/content/pub/pdf/sfcisq.pdf. The Census Bureau should determine how these data collections have improved in the last sixteen years, and consider how the Bureau can help these systems continue to improve as 2020 approaches. Further, the Census Bureau may wish to explore the state of data collection in the nation's largest jail systems; the fifty largest jail systems in the U.S. hold more than a third of the nation's jail population.</p> <p>⁷ The OMB standards provide a common language to promote uniformity and comparability for data on race and ethnicity and were developed in cooperation with federal agencies, including the Census Bureau, to provide consistent data on race and ethnicity throughout the federal government. For an explanation of OMB standards, see Office of Mgmt. & Budget, <i>Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity</i> (Oct. 30, 1997), available at http://www.whitehouse.gov/omb/fedreg_1997standards/.</p> <p>⁸ Owen and Chan, <i>supra</i> note 5, at 37.</p>
c89	<p>I am writing this letter in response to the NOFA of the U.S. Census Bureau requesting public comment on the 2010 Census Residence Rule and Residence Situations. I strongly believe that the Bureau's method of counting incarcerated people at prison locations, rather than in their home communities, leads to an unequal distribution of political power in state and local governments known as "prison gerrymandering." I have attached an April 1, 2013 joint Congressional letter written to then Acting Director Thomas Mesenbourg outlining our support for changing this Census program. Please do not hesitate to contact my office regarding any questions or concerns regarding this issue. Thank you.</p> <p style="text-align: right;">April 1, 2013</p> <p>Mr. Thomas Mesenbourg Acting Director U.S. Census Bureau 4600 Silver Hill Road Washington, DC 20233</p> <p>Dear Mr. Mesenbourg:</p>

	<p>We are writing to request that the Census Bureau begin counting incarcerated people as residents of their home addresses rather than of the prisons in which they are confined. The Census Bureau has long maintained that an accurate census count yields not only a correct number of residents, but also the correct location for each resident. We believe additional thought should be given to the deemed place of residence in this unique situation. As Members of Congress, we have an interest in ensuring that the decennial enumeration provides fair and equitable representation for all.</p> <p>In 2011, nearly 1 in 107 adults in the United States was imprisoned.¹ The Census Bureau's current "residence rules" count incarcerated individuals as residents of the prisons where they are serving their sentences. These incarcerated individuals normally have no ties to the prison location, cannot vote, and most often return to their home communities upon release. The designation of a prison cell as a residence prevents populations in more than 1,500 Federal and state prisons that are largely male, urban, and African-American or Latino from being counted as residents of their home communities.</p> <p>Four states containing 21% percent of the U.S. population have enacted legislation to adjust census data to ensure that prisoner counts do not comprise legislative districts. Maryland and New York enacted legislation to ensure that incarcerated people are counted by home addresses, and Maryland's "No Representation without Population Act" was recently upheld by the U.S. Supreme Court.²</p> <p>We applaud the Census Bureau's decision to release prison data from the 2010 census to assist individual state and local governments in their redistricting efforts. We hope the Census Bureau will develop a standardized national solution to the problem of redistricting distortion, relieving state and local governments from the need to make piecemeal adjustments to ensure prisoners are accurately assigned to their home residences and accurately allocated among legislative and Congressional districts. We therefore urge the Census Bureau to take the steps necessary to ensure that Census 2020 counts prisoners at their home addresses to assist state and local governments in accurately representing these populations.</p> <p>We thank you for your careful consideration of this issue.</p> <p>¹ Office of Justice Programs, Bureau of Justice Statistics, <i>Correctional Populations in the United States, 2011</i> (Nov. 27, 2012) (online at www.bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=4537).</p> <p>² <i>Fletcher v. Lamone</i>, __ U.S. __, 2012 WL 1030482 (June 25, 2012).</p>
c90	<p>I am writing in response to your federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015).</p> <p>I was incarcerated at York Correctional Institution in Niantic, Connecticut from December 7, 2007 to March 18, 2014. Knowing my convictions remained on appeal and were, therefore, legally stayed, the local registrar of voters in my hometown of Orange, Connecticut never removed my name from the town's list of registered voters.</p> <p>Because of the current residence rule, during the last Census I was counted as if I were a resident of Niantic, the town containing the prison where I was incarcerated, despite the fact that I was registered to vote in another town: Orange, Connecticut. This was not fair to my community, nor to any community in Connecticut that didn't have a prison.</p> <p>Furthermore, it is an inaccurate way to count voters. The right to vote is sacred; counting me in one town when I was registered in another is a poor example of how to protect a citizen's most treasured right.</p>

	<p>Because I believe in a population count that accurately represents my community and counts voters where they are actually registered, I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p>
c91	<p>The City of Fayetteville, Cumberland County and the Fayetteville Regional Chamber formed a partnership that works collaboratively to engage with the federal government and pursue funding assistance for strategic focus areas identified in an annual, collectively established agenda. The partnership's combined efforts are critical to the growth and strength of our community. These efforts ensure protection and preservation of essential community assets and resources, allowing all areas of the community and surrounding metropolitan and unincorporated areas to thrive.</p> <p>We would like to thank you for the opportunity to submit comments regarding the Census Bureau's Residence Rule and Residence Situations. One of our community federal agenda goals is to further advance the issues associated with the current process utilized by the US Census Bureau for counting deployed soldiers. The partnership would like to request that the Census Bureau undertake a review of the decades-old policy to prevent further undercounting in the garrison communities.</p> <p>It is our understanding that you are currently reviewing the 2010 Residence Rule and Residence Situations in order to determine if changes should be made to the Rule and/or if the situations should be updated for the 2020 decennial Census. As shown below, we believe that the Rule should be applied to the situation of military personnel who are temporarily deployed overseas to a conflict zone. We are also suggesting several updates to Situation 9(f) for the 2020 Census.</p> <p>Please note that the City of Fayetteville is located in Cumberland County, NC. Cumberland County is the home of Fort Bragg, the largest Army installation in the United States. Because of its size, Fort Bragg influences the population of our City, our County, and the surrounding region. Also, please note that in 2008, the North Carolina General Assembly annexed most of the Cumberland County part of Fort Bragg into the City of Fayetteville; the remainder was annexed into the Town of Spring Lake.</p> <p>In the comments that follow, we refer to the Rule and Situations as outlined in the Federal Register notice published on May 20, 2015.</p> <p>Comments Regarding the Residence Rule</p> <p>As we understand it, the Residence Rule is based on the basic idea that people should be counted at their usual residence, which is the place where they live and sleep most of the time. We agree with this Rule, and we believe that this Rule should be applied to the situation of military personnel who are temporarily deployed overseas to a conflict zone. This would result in these temporarily deployed persons being counted as part of the resident population of the military community from which they were deployed.</p> <p>Comments Regarding Situation 9(f)</p> <p>Situation 9(f) pertains to "U.S. military personnel living on or off a military installation outside the U.S., including dependents living with them." According to the Federal Register Notice, these people are currently "counted as part of the U.S. overseas population. They should not be included on any U.S. census questionnaire."</p> <p>We think that this current situation is not fair for cities and counties that are located near military installations which are subject to large troop deployments. (Appendix 1 explains how the Census Bureau's current procedures for counting deployed military members have negatively impacted North Carolina and its military communities. Appendix 1 provides information on the impacts at the state level, the</p>

military county level, the Fort Bragg annexation area level, and the City of Fayetteville level.)

We would like to offer the following suggestions for updates to Situation 9(f):

Suggestion 1: The Census Bureau should revise Situation 9(f) so that it reflects at least the following two categories of U.S. overseas military populations:

Category 1- Military Members Temporarily Deployed Overseas to a Conflict Zone-For these members, the deployment will hopefully consist of a "there and back" experience. These members might find themselves in places such as Iraq and Afghanistan, but they intend to return to the military installation from which they were temporarily deployed. Members are expected to return to the location from where they deployed, rather than reporting to their next rotational duty assignment. But for being deployed, these members would be back at their last duty station. Although these members might be deployed for 6 to 9 months, we would argue that this is a "temporary" deployment, when considered in light of the overall amount of time these members are assigned to a stateside military base. It is assumed that these members would not likely have dependents living with them while temporarily deployed overseas to a conflict zone.

Category 2-Military Members Assigned Overseas Outside of a Conflict Zone-For these members, the experience of being assigned overseas is part of their career rotation. These members might find themselves assigned to places such as Germany and Japan. For these members, their next rotational duty assignment will very likely be somewhere different from their previous location. It is assumed that these members might have dependents living with them while stationed overseas outside of a conflict zone.

Suggestion 2: The Census Bureau should revise its method of counting overseas military population. In the Federal Register Notice, there is no information on how U.S. military personnel in Situation 9(f) are to be counted, except that these persons are to be counted "as part of the overseas population." We understand that under current procedures, overseas military personnel are counted through administrative records rather than a census questionnaire. We understand that these administrative records are maintained by the Defense Manpower Data Center (DMDC). We also understand that under current procedures, the Census Bureau currently counts these people as part of the apportionment population, but not part of the U.S. resident population. We understand that the Census Bureau allocates these people to a state's apportionment population based on a hierarchy of information that is shown in a person's file maintained by the DMDC. This hierarchy currently starts with the person's home of record, then the person's legal residence, and finally, the person's last duty station. We understand that the Census Bureau has used this hierarchy for the past several decennial censuses.

Suggestion 2(a): The Census Bureau should revise its method of counting overseas military by reversing the hierarchy of information that it currently uses to allocate people to a state's apportionment population. The reversed hierarchy should start with the person's last duty station, then the person's legal residence, and finally, the person's home of record. This suggestion of reversing the hierarchy is intended to be applied to both Category 1 and Category 2 of the overseas population suggested above; this would ensure that both categories are treated the same way. However, if the Census Bureau is not able to treat both categories in the same way, then we would encourage the Census Bureau to apply the reversed hierarchy to at least Category 1. After all, people in Category 1 are the ones who intend to return to their last duty station. They are the ones most likely to return to their last duty station after their deployment ends; this last duty station is also likely where their immediate families are living.

Suggestion 3: Assuming that the Census Bureau is willing to use the reversed hierarchy for at least the people in Category 1, the Census Bureau should count the people in Category 1 as part of a state's resident population, as well as part of a state's apportionment population. As noted above, the people in Category 1 intend to return to their last duty station and they are most likely to return to their last duty station, after their deployment ends.

Suggestion 4: Assuming that the Census Bureau is willing to count the people in Category 1 as part of a state's resident population, the Census Bureau should use the actual address of a person in Category 1 and allocate the person to the census block in which they resided before being deployed. This would ensure that the person is properly counted in the correct jurisdiction (city and county) in which the person resided before being deployed. We assume that the person's actual address would be in the administrative (DMDC) record for the person, because if the person were injured while being deployed, the military would need to be able to notify the person's family members of the injury. We assume that demographic characteristics (e.g., age, sex, and race) about the person in Category 1 would also be available in the administrative record for the person.

Suggestion 5: Consider adding a new question to the Census form. This question would ask: "Is a member of this household currently temporarily deployed overseas to a conflict zone?" A follow-up question would ask: "If yes, please provide the person's name (and age, sex, and race)." This information would then be matched against the administrative record for the Category 1 deployed person.

Suggestion 6: Clarify the Census instructions provided to military families. Local experience has suggested that families of deployed spouses were confused by Census instructions and did not complete their Census form. This increased the undercount of population in military communities. The instructions need to state that if a family member is temporarily deployed overseas to a conflict zone, the person filling out the form should list the deployed family member on the Census form. The instructions should also clearly state that all members of the family should be listed on the form, if a person from the family is temporarily deployed overseas to a conflict zone.

In summary, if the Census Bureau would adopt these suggestions, people in Category 1 (military members temporarily deployed overseas to a conflict zone) would be counted as part of the resident population of the community from which they were deployed. This would correct the undercount problem that has existed in military communities. If the Census Bureau would adopt these suggestions, people in Category 1 would be treated like the people in Situation 1 (people away from their usual residence on Census Day). They would be counted at the residence where they live and sleep most of the time, but for being deployed.

Again, thank you for the opportunity to make these suggestions. If you have any questions, feel free to contact us through the City of Fayetteville's Demographic Planner, ____, at ____, or by way of email at ____.

Appendix 1

How the Census Bureau's Current Procedures for Counting Deployed Military Members Have Negatively Impacted North Carolina and its Military Communities

Introduction and Purpose of This Appendix 1

In the letter preceding this Appendix 1, The City of Fayetteville, Cumberland County and the Fayetteville Regional Chamber partnership, has made several suggestions to the Census Bureau regarding the Census Bureau's current procedures for counting deployed military members. These procedures are based on the 2010 Census residence rule and situation 9(f). The purpose of this Appendix 1 is to show that the current procedures have negatively impacted North Carolina and its military communities. This Appendix 1 provides data in support of the partnership's suggestions for changing the Census Bureau's current procedures.

Background on the Census Bureau's Current Procedures

Prior to the 2010 Census, state and local leaders in North Carolina asked the Census Bureau to revise procedures for counting military members who are deployed overseas. Under the current procedures for the decennial census, in effect from prior censuses, the Census Bureau counted deployed military members as part of the overseas population. For the apportionment counts, the Census Bureau allocated deployed military members to a state's overseas population. The Census Bureau first used the home of record. If home of record was not available, the Census Bureau used the legal residence. If neither home of record or legal residence were available, the Census Bureau used the last duty station.

State and local leaders in North Carolina were concerned that the Census Bureau's current procedures would harm North Carolina, especially if a large number of military members stationed in North Carolina were temporarily deployed while the 2010 Census was conducted. Officials from the Census Bureau told the state that there was not time to change the methods for the 2010 Census. (Census Bureau officials suggested that they would consider changes before the 2020 Census.)

On April 1, 2010, the 2010 Census was conducted.

When the US Census Bureau conducted the 2010 Census, many military personnel stationed at military installations in North Carolina were temporarily deployed overseas. State officials estimate that more than 40,000 military members were deployed from military bases in North Carolina around the time of the 2010 Census (April 1, 2010). (Fayetteville Observer, 3/30/11, p 1A.)

On December 21, 2010, the Census Bureau released the first counts from the 2010 Census. These counts were known as the apportionment counts. These counts were used to apportion the seats in the U.S. House of Representatives to the 50 states. The apportionment population for a state consisted of two numbers: the resident population of the state and the U.S. overseas population allocated to the state, based on home of record information.

Table 1 below shows the apportionment populations for the U.S. and North Carolina, based on the 2010 Census.

Table 1
Apportionment Populations for the U.S. and North Carolina, Based on 2010 Census

Geographic area	Number of representatives	Apportionment population		
		Total	Resident population	U.S. overseas population
United States	435	309,183,463*	308,745,538	1,042,523
North Carolina	13	9,565,781	9,535,483	30,298

Notes:*The total apportionment population of the US includes the resident population for the 50 states, as ascertained by the Twenty-Third Decennial Census under Title 13, United States Code, and counts of overseas U.S. military and federal civilian employees (and their dependents living with them) allocated to their home state, as reported by the employing federal agencies. The apportionment population excludes the resident and overseas population of the District of Columbia.

Source: U.S. Census Bureau. 2010 Census. Population and Housing Unit Counts. United States Summary. Table A.- "Apportionment of U.S. House of Representatives and Apportionment Population Based on 2010 Census."

As shown in Table 1 above, the total U.S. overseas population was 1,042,523, and the North Carolina overseas population was 30,298.

Data on the components of the U.S. overseas population are shown below in the left half of Table 2. As shown, there were 410,696 persons classified as in the Armed Forces and living overseas in the 2010 Census. The City staff assumes that detailed records are available on each of these deployed members of the military. The staff assumes that the military could break this figure down by the number who are deployed temporarily to conflict zones (such as Afghanistan and Iraq), and the number who are assigned to long term duty stations outside of a conflict zone (such as Germany and Japan). (These distinctions are referred to as Category 1 and Category 2 in the partnership's letter.)

Unfortunately, it has not been possible to locate any data sources showing the components of the North Carolina overseas population. (On July 15, 2015, City staff was told that the North Carolina data were not published and cannot be released at this time.)

Therefore, the City staff has estimated the components of the North Carolina overseas population, based on the U.S. percentages. These estimates are shown below in the right half of Table 2.

Table 2
Details on the U.S. Overseas Population and Estimates for North Carolina

	2010-United States		2010-North Carolina (estimated)	
	Number	Percent•	Number	Percent
Total	1,042,523	100.00%	30,298	100.00%
Federal Employees	434,382	41.67%	12,624	41.67%
Armed Forces	410,696	39.39%	11,936	39.39%.
Fed Civilian Employees	23,686	2.27%	688	2.27%
Dependents of Fed Employees	608,141	58.33%	17,674	58.33%
Armed Forces Dependents	592,153	56.80%	17,209	56.80%
Fed Civilian Dependents	15,988	1.53%	465	1.53%
Total Armed Forces & Dependents	1,002,849	96.19%	29,145	96.19%
Total Fed Civ Empl & Dependents	39,674	3.81%	1,153	3.81%

Source: US data based on report entitled, 2010 Census Federally Affiliated Overseas Count Operation Assessment Report. Data were in an unnumbered table on page 2 of the report. NC data calculated, based on US percentages.

Note: *Published percentages were rounded and did not show any decimal places. Percentages shown above are shown to 2 decimal places.

As shown above in Table 2, City staff has estimated that 29,145 people in the North Carolina overseas population were members of the Armed Forces and their dependents. Out of this, 11,936 were estimated to be members of the Armed Forces, while 17,209 were estimated to be dependents of the Armed Forces members.

If the Census Bureau would adopt the suggestions in the partnership's letter [e.g., if the Census Bureau would distinguish between Category 1 (temporarily deployed overseas) and Category 2 (assigned overseas for a longer term), and if the Census Bureau would use the last duty station criteria in allocating overseas military members to states,) the City staff believes the numbers for North Carolina shown in Table 2 above would be very different.

On March 2, 2012, the Census Bureau released the P.L. 94-171 Redistricting Summary File Data for North Carolina. This release provided

detailed information down to the block level for resident total population by race, voting age population by race, Hispanic Origin, and number of housing units. The Census Bureau provided summaries of this data by block groups, census tracts, voting districts, cities, and counties. Thus, local officials were able for the first time to know what their new 2010 Census populations were. The Redistricting Data release did not include any information about the group quarters population.

Assessment of the Impacts of the Current Procedure

As pointed out in Table 2 of the preceding section, the Census Bureau reported that the North Carolina overseas population was 30,298. Overseas military members made up a large part of this number, but it has not been possible to determine the actual number. However, state officials estimated that more than 40,000 military members were deployed from military bases in North Carolina around the time of the 2010 Census (Fayetteville Observer, 3/30/11, p. 1A).

City staff has tried to locate studies documenting the impacts of the current procedure on North Carolina. City staff has also performed its own analysis, using Census Bureau data. These studies and analysis efforts are discussed below.

Study of Defense Department Data. This is the most important study that City staff has been able to identify. Although City staff has not been able to locate a copy of this study, it was mentioned in a major story in The Fayetteville Observer published on March 30, 2011. This story was entitled, "Deployment Costly for State in Census." This story was based on a staff and wire report. The story referred to a study of Defense Department data that was provided to the Associated Press.

One of the main findings from the study was: "North Carolina officials estimate more than 40,000 troops were deployed from the state's military bases around the time of the census one year ago. But only 12,200 of the nation's overseas military personnel listed North Carolina as their home state, according to Department of Defense data provided to AP." This created a gap of around 28,000 troops, which was costly to the state. For example, had the apportionment population of the state been only 15,000 higher, the state would have been eligible for an extra congressional seat. This gap also likely resulted in considerable federal funding losses, which are often distributed based on population. (Fayetteville Observer, 3/30/11, p 1A.)

City Staff's Analysis Based on Census Bureau Data - City staff has used the data released as part of the 2010 Census to analyze the extent to which deployments have affected populations in North Carolina. This included using the Advanced Group Quarters Data, which was released on April 20, 2011, via the Census Bureau's FTP site. (It is believed that this data was later incorporated into the 2010 Census Summary File 1 dataset.) The term, "group quarters," refers to living quarters other than traditional housing units. Examples of group quarters are: nursing homes, college dormitories, and military quarters, i.e., military barracks.

The release of the Advance Group Quarters data made it possible for the first time to approximate the number of group quarters military personnel who were deployed from North Carolina. The general approach was to compare the number of people living in military quarters in the 2010 Census against the same number from the 2000 Census. It is assumed that military quarters population is a good indicator of the overall military population of an area.

The City staff has used Census Bureau data at four different scales: the state level, the military county level, Fort Bragg annexation area level, and the City of Fayetteville level. Each is discussed below.

Analysis at the State Level-Table 3 below shows the number of persons living in military quarters (i.e., barracks) in North Carolina in 2000 and 2010.

Table 3
Number of Persons Living in Military Quarters in North Carolina in 2000 and 2010

Geographic Area	2000 Census	2010 Census	Absolute Change, 2000-2010	Percent Change, 2000-2010
North Carolina	37,022	26,326	-10,696	-28.89%

The data in Table 3 show that the military quarters population decreased by 10,696 between 2000 and 2010. It seems reasonable to conclude that at least part of this decrease was due to the Census Bureau's procedures for counting deployed military personnel from the various military bases in North Carolina.

However, other factors could have affected this decrease. For example, the decrease could be a function of modernization programs at military bases in North Carolina. For example, a base might have torn down some barracks between 2000 and 2010; in this situation, it is assumed the base would have provided opportunities for the displaced military personnel to live off base.

Analysis at the Military County Level - "Military County" refers to any county with people living in military quarters. Table 4 below shows the number of persons living in military quarters in North Carolina by county in 2000 and 2010. The counties are ranked in the order of their military quarters population in 2000.

Table 4
Number of Persons Living in Military Quarters in North Carolina, by County,
in 2000 and 2010

Geographic Area	2000 Census	2010 Census	Absolute Change, 2000-2010	Percent Change, 2000-2010
Onslow Co	18,491	16,697	- 1,794	- 9.70%
Cumberland Co	13,857	5,949	-7,908	-57.07%
Craven Co	3,420	2,986	- 434	-12.69%
Wayne Co	563	594	31	5.51%
Richmond Co	374	0	- 374	-100.00%
Brunswick Co	222	4	- 218	- 98.20%
Pasquotank Co	33	41	8	24.24%
Dare Co	27	6	- 21	- 77.78%
New Hanover	22	29	7	31.82%
Carteret Co	13	15	2	15.38%
Pamlico Co	0	4	4	
Mecklenburg	0	1	1	

Total-NC	37,022	26,326	-10,696	- 28.89%
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As shown above, Cumberland County (the home of Fort Bragg) experienced the largest absolute decrease in military quarters population of any county in North Carolina between 2000 and 2010.

It is assumed that this decrease is significantly related to deployment of troops from Fort Bragg around the time of the 2010 Census, and to the Census Bureau's procedures for counting deployed military members.

According to The Fayetteville Observer, Fort Bragg officials estimate that 13,000 soldiers returned to Fort Bragg in 2010 after being deployed to Afghanistan, Iraq, and Haiti. It was estimated that many of these returning troops returned after the date of the 2010 Census (April 1, 2010). (Fayetteville Observer, 3/30/11, p. 1A.)

Analysis at the Fort Bragg Annexation Area Level - A large part of Fort Bragg was annexed into the City of Fayetteville on September 1, 2008. Since the date of annexation, the military quarters population of this part of Fort Bragg has declined significantly. This decrease in the military quarters population definitely impacted the population of the City of Fayetteville, as reflected in the population estimates prepared by the State Demographer.

Table 5 shows data for the part of Fort Bragg annexed into the City of Fayetteville for four time periods (as of the 2000 Census, as of July 1, 2008, as of July 1, 2009, and as of the 2010 Census).

Table 5
Data for the Part of Fort Bragg Annexed Into the City of Fayetteville Effective 9/1/08

Population Components	As of 2000 Census (1)	As of July 1, 2008 (2)	As of July 1, 2009 (2)	As of 2010 Census (3)
Total Number Housing Units	4,142	4,338	4,338	4,185
# Vacant Housing Units	103	500	500	379
# Occupied Housing Units	4,039	3,838	3,838	3,806
Average Household Size	3.7096	3.6201	3.6201	3.1742
Household Population	14,983	13,894	13,894	12,081
Group Quarters Population	13,132	12,053	11,028	5,116
Total Population	28,115	25,947	24,922	17,197

Sources:

1. The data as of the 2000 Census are based on a tabulation of 2000 census blocks that were completely within the boundaries of the area annexed in 2008. When 2000 census blocks straddled the annexation boundary, City staff worked with a staff member from Fort Bragg in allocating housing units and population to the part of the block included within the annexation boundary. The City had to submit these estimates, based on 2000 Census data, to the US Justice Department for preclearance of the annexation of Fort Bragg.
2. The housing count data and the household population data for July 1, 2008 and for July 1, 2009 are from information provided by Fort Bragg officials to the City for submission to the State Demographer. The group quarters population data for July 1, 2008 and for July 1, 2009 are from information provided by Fort Bragg officials to the State Demographer. The State Demographer used all of this information in preparing her "standard" estimate of population for the City of Fayetteville.
3. The data as of the 2010 Census are based on a tabulation of 2010 census blocks that were completely within the boundaries of the area annexed in 2008. This involved using GIS to join block-level group quarters data, by facility type, to the shape file of census blocks.

The information in Table 5 above shows that there was a gradual decrease in the group quarters population in the Fort Bragg annex area between the 2000 Census and July 1, 2009. This might have been a function of the demolition of old barracks and the provision of opportunities for barracks residents to move off-post.

The information in Table 5 above also shows that there was a very sharp decrease in the group quarters population in the Fort Bragg annex area between July 1, 2009 and the 2010 Census. This was very likely due to the deployment of troops living in barracks on Fort Bragg, and to the Census Bureau's procedures for counting deployed military members.

The information in Table 5 above also suggests that the impact of deployments can be detected in the Fort Bragg annex area, in terms of a decrease in household population between July 1, 2009 and the 2010 Census. (It should be noted that in addition to barracks, many people on Fort Bragg live in traditional family units. These units are typically single-family detached units.) For example, while the number of occupied housing units declined slightly, the average household size decreased significantly. This might be because of the deployment of one adult from the household. Under this scenario, another adult would have been left in the household, along with any children from the household.

Analysis at the City of Fayetteville Level - The decrease in the military quarters population within the part of Fort Bragg that was annexed into the City of Fayetteville in 2008 has definitely impacted the overall population of the City of Fayetteville.

For example, the overall population of the City according to the 2010 Census was only 200,564. Prior to the release of the 2010 Census data for Fayetteville, the North Carolina State Demographer had estimated that the City's population was approximately 208,000.

It should be noted that this analysis of deployment impacts has not included a study of neighborhoods located off-post from Fort Bragg but within the City of Fayetteville. It is possible that if such a study were done, it would reveal that average household size was suppressed by the absence of an adult from the household who was deployed at the time of the 2010 Census.

Officials from another military community in North Carolina, Jacksonville, have reported that there was an undercount of household population in the Jacksonville area. It is believed that the undercount resulted in part from confusing instructions on how to fill out the Census form. A study of this problem has not been done in the Fayetteville area.

Summary of the Impacts of the Current Procedure

The study of Defense Department data outlined above, along with the City staff's analysis of Census Bureau data at several geographic

	<p>scales, suggest that the 2010 Census populations of military base communities in North Carolina were significantly impacted by the Census Bureaus' procedures for counting military members who were temporarily deployed overseas to a conflict zone. It is unfortunate that many of these deployed members of the military were apparently deployed just prior to the 2010 Census. This meant that under the current procedures of the Census Bureau, they were not counted in state, county, and city resident population counts. However, if the Census Bureau will adopt the suggestions outlined in the partnership's letter, this situation will likely not happen again.</p>
c92	<p>The Maryland State Conference of NAACP Branches, the Somerset County Branch of the NAACP (together, “the NAACP”) and the American Civil Liberties Union of Maryland (“the ACLU-MD”)¹ submit this comment in response to the Census Bureau’s <i>Federal Register</i> notice regarding the Residence Rule and Specific Residence Situations, 80 FR 28950 (May 20, 2015) to support counting incarcerated people at their places of last residence, rather than at their places of incarceration. As detailed below, our experience with this issue in Maryland provides strong support, from a civil rights perspective, for this change.</p> <p>The NAACP and the ACLU-MD are committed to preserving all citizens’ right to be equally represented in the electoral system, and we have worked to make that promise a reality in our own state. Somerset County, on Maryland’s Eastern Shore, has long been one of the state’s most racially-divided communities, with a sad history that includes lynchings, formal opposition to school integration through the 1960s, and court-ordered reforms to racially discriminatory election and employment practices into the 1980s and 1990s.²</p> <p>At the time of the last U.S. Census, Somerset County was 42 percent African American—the highest ratio of blacks to whites in any Eastern Shore County.³ Yet, despite Somerset’s demographic diversity, blacks have historically been left virtually unrepresented in County government.⁴ Indeed, until 2010, no black person had <i>ever</i> been elected or appointed— in all of the County’s 350-year history—to <i>any</i> top County office, including County Commissioner, County Administrator, Sheriff, Detention Center Warden, Judge, State’s Attorney, State Delegate, County Treasurer, County Finance Director, County Attorney, County Personnel Director, County Planning Director, County Fire Marshall, County Emergency Management Director or County Elections Administrator, among others.⁵ The situation persisted even though the historically black University of Maryland, Eastern Shore (“UMES”), located within the county, graduates many candidates qualified for government jobs and offices.</p> <p>In 2008 and 2009, the NAACP and ACLU-MD began to understand that part of the reason African Americans had remained shut out of Somerset government for so long related to what is now known as “prison-based gerrymandering.” Because the County is rural and relatively sparsely populated, the inclusion for redistricting purposes of the large prison population at Eastern Correctional Institution (“ECI”) severely undermined the racial fairness of the local election system.</p> <p>Due to a Voting Rights Act challenge to the County’s at-large election system in the mid-1980s, the County switched to a system of five single-member districts to elect its County Commission. The County planned one district as a remedial district with a majority black population, but by the time that district was established, ECI had opened. ECI’s mostly minority inmates were counted as residents of the so-called remedial district, even though they were ineligible to vote in Somerset elections. The prison’s inclusion distorted the district’s voting power, because only a small share of those counted in the district were actually eligible to vote, and an even smaller share of those eligible to vote were African American. As such, the district could not and did not function as a true remedial district, and for two decades consistently elected white officials to represent the “minority” district. Moreover, because inmates significantly outnumbered other district residents, their inclusion in the redistricting database led to over-representation of non- prison residents within that district, as compared to residents in other districts that did not include a prison.</p> <p>In 2009 and 2010, the NAACP and ACLU-MD partnered with community leaders to challenge this system. Together, they advocated with local Somerset officials, the Maryland Attorney General, and the Maryland General Assembly for exclusion of the prison population from the redistricting database. Eventually, as a result of this advocacy, the Maryland legislature became the first in the nation to adopt a</p>

law mandating that prisoners be counted at their place of last residence, rather than their place of incarceration.⁶ This simple change finally gave meaning to the voting rights remedy put in place by Somerset County in 1986 and paved the way for greater participation by minorities in Somerset County's local government. In fact, the County's first black County Commissioner, Rev. Craig Mathies, was elected shortly after the law was enacted. Furthermore, Somerset's 2012 redistricting plan includes two districts with majority minority populations, better reflecting the demographics of the community and enhancing minority electoral opportunities within the County.

The story of Somerset County illustrates one adverse collateral consequence that can follow from the dramatic growth of our nation's prison population over the past few decades: a reduction in the suitability of current Census counts for use in redistricting. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million.⁷ But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars.⁸ This change implicates a need for corresponding change in application of the Census's "usual residence" rule with respect to incarcerated persons, to ensure that redistricting decisions and remedies count populations accurately and promote electoral fairness for all.

By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people.⁹ Although Maryland (along with California, Delaware, New York, and over 200 counties and municipalities) has approved a measure to adjust the Census' population totals to count incarcerated people at home, this ad hoc approach is neither efficient nor universally feasible. For example, the Massachusetts state legislature concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses.¹⁰

Thank you for this opportunity to comment on the Residence Rule and Specific Residence Situations as the Bureau strives to count everyone in the right place, in keeping with changes in society and population realities. Because of our experience in Somerset County—and our awareness of the difference that Maryland's new rule made to African American residents there—the Maryland State Conference of NAACP Branches, the Somerset County Branch of the NAACP and the ACLU of Maryland urge the U.S. Census Bureau to count incarcerated people as residents of their last home addresses.

¹ The American Civil Liberties Union submitted separate comments to the Census Bureau reflecting the work of the ACLU nationwide to ensure population counts that accurately represent our communities.

² See ACLU of Maryland and Somerset County NAACP, "Semper Eadem—'Always the Same'?" at 5 (2009), available at http://www.aclu-md.org/uploaded_files/0000/0348/finalreportwapp.pdf [hereinafter "Report"].

³ See U.S. CENSUS, "2010 Census Interactive Population Map," available at <http://www.census.gov/2010census/popmap/>. According to the 2010 U.S. Census, Somerset County is 53.53% white and 42.28% black; the only parts of Maryland with a higher percentage of black residents are Prince George's County and Baltimore City.

⁴ See Report, *supra* note 1, at 4. According to the Report, African Americans represent 35 percent of Somerset County's available labor force, but only 12.6 percent of County employees.

⁵ See *id.* at 2–3. Indeed, according to EEO filings at that time, not a single African American was employed by the County in a professional capacity. The County employed 46 people full or part time that year in official, professional, technical or paraprofessional positions, but *none* was African American.

⁶ Md. Code, State Gov't § 2–2A–01 (2015).

⁷ See U.S. Department of Justice, Bureau of Justice Statistics, "Historical Corrections Statistics in the United States, 1850–1984" at Table 4–1 (December 1986), available at <http://www.bjs.gov/content/pub/pdf/hcsus5084.pdf>.

⁸ See U.S. Department of Justice, Bureau of Justice Statistics, "Correctional Populations in the United States, 2012" at Table 2 (December 2013), available at <http://www.bjs.gov/content/pub/pdf/cpus12.pdf>.

⁹ See Prisoners of the Census, "Detailed demographics of correctional populations now available for nation" (Sept. 13, 2011), available at <http://www.prisonersofthecensus.org/news/2011/09/13/sf1/>.

	¹⁰ See The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).
c93	<p>I am writing in response to the May 20 Federal Register notice soliciting comments on the Residence Rule and Residence Situations.</p> <p>I am a data scientist (BS Math Caltech '86, PhD Math MIT '89) with several refereed publications on the mathematics of voting. The data which the census bureau collects inmates according to the home address is of critical importance and I strongly urge you to count inmates at their home address rather than the particular prison in which they are incarcerated on April 1, 2020.</p> <p>This data will help us researcher understand the effect of incarceration on the home community.</p> <p>On a more practical level, without this data, citizens who are barred from voting become literally political prisoners as their place of incarceration can be chosen to transfer representation from their home community to the location of their prison.</p> <p>I would be happy to discuss this matter in more detail with you or any members of your staff.</p>
c94	<p>Prison inmates should be counted as residents of their permanent home addresses, not at the places of incarceration. I will not attempt a comprehensive discussion of this issue, which many competent persons have addressed. I wish, however, to call attention to one facet of the question that should receive more attention: the inconsistent treatment of transient populations.</p> <p>I will then offer some observations based on my own experience. I directed the staff work on redistricting for successive Minority Leaders of the New York State Senate, from 1980 through my retirement at the end of 2005; was the principal consultant to the Committee on Election Law of the Bar Association of the City of New York in the development of its 2007 report on reform of the New York redistricting process; worked closely with legal teams on litigation concerning New York redistricting during each of the last four decades; consulted with New York State Senate and Assembly staff on the drafting of the prison population re-allocation law enacted in 2010; and consulted with California Assembly staff in connection with the latest amendment to California’s prison population re-allocation law. (I am not a lawyer.)</p> <p>I. The counting of prisoners at the places of incarceration is not part of a consistent rule for defining residence.</p> <p>This can be understood by comparing the rules for counting three categories of transient populations: a) college and university students away from home; b) persons traveling for business and pleasure; and c) those who are away from home as prison inmates. I do not wish to argue that the rules for students and travelers should be changed. But the comparison will illuminate the problem with the rule that applies to prisoners.</p> <p>Students and prisoners are counted at their temporary residences, and travelers are counted at their permanent home addresses. Yet the students and the travelers have much in common with each other, in ways in which both groups differ from the prisoners. Unlike the prisoners, both the students and the travelers:</p> <ol style="list-style-type: none"> 1. are at their Census Day location voluntarily; 2. are part of the social and economic fabric of the communities where they temporarily reside: walking freely in the streets, using the roads and public transit, frequenting restaurants, visiting parks, attending sports events, museums, theatres, etc., and free to participate in politics and other aspects of civic life;

3. use public services financed by local taxes: roads, public transport, police, ambulances and emergency rooms, building code enforcement, restaurant inspections, etc.; and
4. pay local taxes: sales taxes, for both groups; hotel occupancy taxes and, indirectly, real estate taxes, for travelers; and real estate taxes, either directly or indirectly (depending on whether they own or rent), for students living off-campus.

Students may also be employed, holding the sort of jobs that might also be held by permanent local residents, and likewise subject to taxes on their earnings. And many travelers are paid to perform duties away from home in connection with their employment.

Furthermore, members of Congress and state legislators, in furthering the interests of the permanent residents of their districts, also seek to further the interests of the students and visitors. It is not only from the love of learning or recognition of the social value of research that elected officials seek to support and expand institutions of higher learning in their districts. But by seeking to maximize the local economic benefit derived from such institutions – supporting expansion and making the colleges and universities attractive to students – they also further the interests of the students.

Similarly, in seeking prosperity for their districts by making them attractive destinations for business travelers and tourists, they serve the interests of the visitors. In both cases, the elected representatives would entirely fail to serve the interests of their permanent constituents if they did not also faithfully serve the interests of the students and visitors.

In contrast, no Congress member or state legislator seeks to represent the interests of the prisoners incarcerated in his or her district. Their offices do not offer the prisoners the ‘constituent services’ that they provide to permanent residents of their districts. To the degree that they seek to maximize the economic value of the prisons – which are, indeed, the major local employer in some places, as universities are in others – they regard the prisoners merely as the raw material of a local industry. To the degree that the prisoners enjoy representation in Congress or state legislatures, it is only from the representatives of the communities where they left behind their families and friends, to which they will eventually return, and where they may once again be voters.

New York City, where I live, is disadvantaged by the census rules relating to both prisoners and visitors.

On the one hand, thousands of permanent residents of the city are counted at prisons outside of the city. Under the New York State law¹ subtracting prisoners, for purposes of legislative apportionment, from their places of incarceration, and re-allocating them insofar as possible to their permanent home addresses, the population of New York City showed a net increase of 21,082, while the balance of the state showed a net decrease of 14,705. This actually understates the effect on New York City of the rule for counting prisoners, because the legislative task force² charged with making the calculations had no access to data from Federal agencies or other states, a subject I will return to below.

At the same time, the city’s population is permanently swollen by hundreds of thousands of visitors, but these persons are not counted here.³ There is, of course, a good deal of turnover among the individuals who constitute this transient population, but the total remains fairly steady. There is seasonal variation in this number, but not nearly so large as the seasonal variation in the number of students in a college town. In many college towns, almost the whole student population will vanish about two months after Census Day, not to return for about three months. And when the fall term begins, many who were counted in April will be gone, to be replaced by new enrollees.

For all of these reasons, if visitors are to be counted at their permanent home addresses, not where they are sleeping on Census Day, there is an even stronger argument for applying that principle to prisoners.

The Census Bureau should be guided by the ruling of the three-judge court in *Fletcher v. Lamone*, 831 F. Supp.2d 887 (D. Md. 2011), that the careful attribution of prisoners to their permanent home addresses for congressional and legislative redistricting is consistent with the constitutional rules. There is no basis for supposing that such attribution is permissible for congressional redistricting, but not for congressional reapportionment. Note especially the Court's observation distinguishing prisoners from other 'group quarters' populations:

We also observe that the plaintiffs' argument on this point implies that college students, soldiers, and prisoners are all similarly situated groups. This assumption, however, is questionable at best. College students and members of the military are eligible to vote, while incarcerated persons are not. In addition, college students and military personnel have the liberty to interact with members of the surrounding community and to engage fully in civic life. In this sense, both groups have a much more substantial connection to, and effect on, the communities where they reside than do prisoners. (*Id.* at 896)

The Court also observed that:

According to the Census Bureau, prisoners are counted where they are incarcerated for pragmatic and administrative reasons, not legal ones. The Bureau has explained that counting prisoners at their home addresses would require "collecting information from each prisoner individually" and necessitate "an extensive coordination procedure" with correctional facilities. (*Id.* at 895)

But while it is possible to imagine many technical difficulties that would arise in counting business travelers and tourists where they are actually sleeping on Census Day, we now have extensive experience demonstrating that it would be quite practicable to count prisoners at their permanent home addresses. The states of New York and Maryland successfully adjusted their population databases for the 2010-12 redistricting without a huge investment of resources. An account of how New York and Maryland accomplished this, and an excellent review of the entire subject, is provided in Prof. Erika L. Wood's study, *Implementing Reform: How Maryland and New York Ended Prison Gerrymandering* (New York: Dēmos, 2014).⁴ These experiences can provide a model, and should lead the Census Bureau to reconsider its previous view that it would be prohibitively expensive to do what New York and Maryland accomplished.

II. I wish to add a few observations from my own experience to Prof. Wood's findings and recommendations.

A. In the discussions leading to the enactment of the New York law in 2010, those of us who had experience with redistricting databases, and with the use of geographic information systems to geocode addresses to census blocks, agreed that it would be possible to re-allocate to their home addresses about 60% of the prisoners on the list to be provided by the NYS Department of Corrections and Community Supervision (DOCCS).⁵ We were wrong. As Prof. Wood documents, 79% of the addresses on the DOCCS list were successfully attributed to New York census blocks. And even that figure understates the success of the project, since the remaining 21% includes those prisoners whose permanent homes were not in New York State.

B. In my consultations during 2010 with New York legislative staff concerning the drafting of Part XX of Chap. 57, it was clear that the decision to exclude congressional redistricting from the use of the adjusted database was entirely a matter of legal caution. There was case law supporting the use of an adjusted database for state legislative redistricting, but there was much uncertainty about whether the courts would permit such a database to be used for congressional redistricting. The use of the adjusted database was limited to legislative redistricting to avoid creating a possible basis for a legal challenge to the congressional districts to be enacted in 2012. Happily, Maryland was more bold, and the matter was settled in *Fletcher*. I am certain, from the discussions in which I participated, that the New York law

	<p>would have encompassed congressional redistricting if the issues later decided in <i>Fletcher</i> had already been settled in 2010.⁶</p> <p>C. The California re-allocation law, which will apply to the next decennial redistricting, originally provided for subtraction of prisoners from their places of incarceration only if they could be re-allocated to a permanent home address within the state. The law therefore excluded prisoners in the custody of the U.S. Government. The law has now been amended to provide, as in the New York law, for the subtraction of all inmates of Federal and state prisons, and then for their re-allocation to their permanent home addresses insofar as possible. The laws in both states are now based on the principle that counting a person in the <i>wrong</i> place distorts the apportionment database even more than excluding the person entirely.</p> <p>D. There is nothing novel about excluding from the PL94-171 data set those persons who are part of the U.S. population, but who cannot be attributed to a specific U.S. address for purposes of reapportionment and redistricting. That is the rule for U.S. citizens and their dependents living outside the U.S. while in the employ of the U.S. Government or serving in the armed forces.</p> <p>E. The drafters of the New York law assumed that it would be impossible to obtain from the U.S. Bureau of Prisons the sort of list that was provided by NYSDOCCS. Maryland did attempt to obtain such a list from BOP, and was rebuffed. BOP explained its refusal as based on a concern to protect the confidentiality of records about prisoners. This a legitimate concern, and underlies the confidentiality provisions that were written into the New York and California re-allocation laws. One cannot blame BOP for being cautious about providing such lists to state agencies, and of course the state legislatures cannot command BOP's cooperation. But the Census Bureau may well be able to address BOP's concerns about preserving confidentiality. If the Census Bureau can obtain the necessary lists from BOP (and also from ICE), it will be in a far better position than the states, individually or collectively, to allocate prisoners to the census blocks of their permanent home addresses. The Census Bureau, unlike the states, will also be able to re-allocate those prisoners who are being held, either by Federal or state authorities, in a state other than that of their permanent residence.</p> <p>For all of the above reasons, the residence rule for prison inmates should be changed. Prisoners should be counted at the homes to which they will eventually return, where they left behind their families and friends, where they are represented by elected officials, and where they may once again be voters.</p> <p>¹ Legislative Law, Section 83-m, Subsection 13, enacted by Part XX of Chapter 57 of the Laws of 2010.</p> <p>² The Legislative Task Force on Demographic Research and Reapportionment, known as LATFOR, an acronym derived from an older name of the task force.</p> <p>³ NYC & Company, the city's tourism promotion organization, estimates that there were 54.3 million visitors in 2013. [http://www.nycgo.com/articles/nyc-statistics-page] The <i>New York Times</i> reports that there were 108,592 hotel rooms in the city in 2013, and estimates that the average daily occupancy was 68% in January 2015, down 4.7% from January 2014 (the January 2014 figure having been swollen by the Super Bowl). [http://www.nytimes.com/2015/03/04/realestate/commercial/hotel-market-staggers-in-new-york-city.html; web edition, March 3, 2015; New York print edition, March 4, 2015, p. B6] Allowing for some uncertainty about the estimated number of visitors, the proportion who did not remain for the night, the average number of persons in an occupied hotel room, and the proportion of visitors who found other accommodations, it is reasonable to suppose that some 200,000 visitors sleep here on an average night. That is a good enough estimate for the present discussion.</p> <p>⁴ Available at: http://www.demos.org/publication/implementing-reform-how-maryland-new-york-ended-prison-gerrymandering</p> <p>⁵ The list provided all of the address information available to DOCCS about each prisoner, but no names. Each record was identified only by a number that the Legislative Task Force could use in addressing inquiries to DOCCS. Furthermore, the Task Force was required to hold all of the address information in confidence, making public only the revised block-level counts. The California law has a similar provision.</p> <p>⁶ In the event, the New York Legislature failed to agree on a congressional redistricting plan in 2012, and the task fell to a U.S. District Court after all. But that was not foreseen in 2010.</p>
c95	I am writing in response to your May 20 Federal Register notice regarding the Residence Rule and Residence situations.

	<p>As a philosopher of science focused on social demography and social ecology, I analyze studies that, among other things, investigate the effects of crime, incarceration, and recidivism in American communities. In order to understand those effects it is crucial to have reliable data regarding the incarceration rates in those communities. The Census Bureau is the only reliable source of demographic data. Should the proposed rule be adopted this research would be impossible. I, therefore, urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census Day.</p> <p>Thank you for your consideration.</p>
c96	<p>These comments are submitted in response to the Public Notice, dated May 20, 2015, regarding proposed changes to the Residence Rule and Residence Situations for the upcoming 2020 Census.¹ The Public Notice sought comment on the Residence Rule, and the undersigned seeks to provide comment on the Residence Rule as it relates to those who are incarcerated (Rule 13) and those in Juvenile Facilities (Rule 16) (collectively, the “Detainees”).</p> <p>I have served as the <i>pro bono</i> counsel for the family members of those who have been incarcerated in a proceeding before the Federal Communications Commission since 2010. The proceeding relates to the telephone rates and other charges that are imposed on families to remain in contact with Detainees, and I have actively advocated before the FCC, Congress, and the US District Court for the establishment of rate caps and elimination of excessive fees. The telephone is uniquely important to the families I represent <i>because correctional facilities tend to be located very far away from their homes</i>. In this context, I have become uniquely aware of the economic and personal impact of the difficulties of family members to remain in contact with Detainees, especially with the 1.7 million children with at least one family member who are Detainees.</p> <p>Rule 13 and Rule 16 count Detainees as being a resident at the facility, rather than their residence before being detained, i.e., their permanent residence. Not only is this determination different than many states’ laws which specifically do not change Detainees’ permanent residences, and actually permit Detainees to vote for candidates at their permanent residence. Thus, the rules are in conflict with state law, and do not reflect the reality of how states treat Detainees in connection with their right to vote.</p> <p>Moreover, this rule incentivizes the construction of detention facilities at distant locations far away from the Detainees’ permanent residences. In particular, because Census figures are used to determine state legislative districts, these rules skew the population of districts by adding additional people to districts that do not actually have the ability to vote for candidates in those very same congressional districts.</p> <p>Because the current Census rules count Detainees as residents at the facility location, there is a strong incentive for communities to volunteer to construct detention facilities in order to increase their population without permitting the Detainees to vote in local elections. Studies have shown that more than 60% of those incarcerated are at facilities more than 100 miles from their permanent residence, and 10% of those incarcerated are located at facilities more than 500 miles from their permanent residence.²</p> <p>The more reasonable approach would be for the Census Bureau to count Detainees at their permanent residence. This would lead to the accurate determination of the number of eligible voting residents for that particular district. Moreover, it would eliminate the perverse incentive to site detention facilities far distances from Detainees’ permanent residences. If detention facilities are more easily accessible, then the recidivism rate will be reduced by increase contact between families and friends and Detainees, which will reduce the prison and jail costs.</p>

	<p>Thank you this opportunity to provide comments on this very important criminal justice matter.</p> <p>¹ See <i>Notice and Request for Comment</i>, 80 Fed. Reg. 28950 (rel. May 20, 2015) (the “Public Notice”).</p> <p>² <i>Incarcerated Parents and Their Children</i>, Bureau of Justice Statistics (Aug. 2000) (www.bjs.gov/content/pub/pdf/iptc.pdf).</p>
c97	<p>I am writing this letter to respond to the proposed 2020 Census “Residence Rule and Residence Situations” that is open for public comment.</p> <p>I believe that there is a serious problem with category number 13, ("People in Correctional Facilities for Adults"). In each of the listed subcategories (a through d) of number 13, people are proposed to be: "Counted at the Facility."</p> <p>Your question was about problems seen in the 2010 Census with the rules; but as this part of the rule has been unchanged for at least the last several decades; my experience in the 1990, 2000 and 2010 redistricting cycles may be helpful.</p> <p>I live, since the late 1990's, in Franklin County, New York, a rural county that has a large prison population. Prisoners are not residents of our community as they originate outside of our community, they have no interaction with our community and immediately leave the community when their sentences expire or when the Department of Corrections chooses to transfer them elsewhere. Enumerating these populations as part of our community forces our community to choose between either: (1) rejecting your counts, or (2) using census data that dilutes the votes of most of our community's residents to the benefit of the few who live immediately adjacent to the prison.</p> <p>I have been concerned about the implications of your "residence rule" for democracy within rural communities since the 1990 Census when I was a resident of another upstate New York county which similarly hosted a large correctional facility. I, and many of my Jefferson County neighbors were concerned and raised public awareness that relying on your counts resulted in county apportionment that diluted the votes of residents who did not leave near the prisons.</p> <p>In the late 1990's, I moved to Franklin County and was again involved as a citizen activist in redistricting. There, I was pleasantly surprised to learn that I would not need to organize a post-2000 lawsuit against Franklin County because my county was already committed to modifying your census data to remove the prison populations and avoid what is now commonly called "prison gerrymandering."</p> <p>However, a controversy that erupted in the neighboring county of St. Lawrence over prison-counting after the 2000 Census led me to discover that the rejection of Census Bureau prison counts in rural communities was the rule, not the exception. In summary,</p> <p>St. Lawrence County had, after the 1990 Census, traditionally rejected your prison counts, but for “outcome determinative” reasons decided to include the prison populations in the post-2000 districts. The public objected, with thousands of county residents signing a petition requesting the redistricting plan be put on the ballot. The county leadership rejected the petition and in response the public defeated the political party responsible for the prison gerrymandering in the next election.</p> <p>Around this time, an upstate newspaper contacted other counties in the state to see how they were currently handling the prison populations, and I surveyed several counties that this newspaper missed. This survey work inspired the Prison Policy Initiative to do a more formal survey analysis which they published as “Phantom constituents in the Empire State: How outdated Census Bureau methodology burdens New York counties” concluding that the majority of New York State counties with large prisons rejected prison gerrymandering.</p>

	<p>What should be obvious from my letter is that I, along with the elected leaders of my county, were concerned that including the prison population where the Census Bureau counted it but where those people -- 10% of our county's Census population -- do not reside would have a vote dilutive impact on the other parts of our county. We simply did not want to draw a county legislative districts that had a preponderance of incarcerated people. Such districts would have given every county resident living near the prisons much more voting power than the other residents of the county.</p> <p>Having considered the effects of "prison gerrymandering" on rural counties that host prisons, I and many of my neighbors came to the obvious conclusion that the Census Bureau's counts are inaccurate in so far as the Bureau counted incarcerated people as residents of the prison locations. As a result, we removed the prison populations from the one set of legislative districts that we could control -- our county districts.</p> <p>And here I feel I need to clarify our approach, given current statements from some plaintiffs in the current Texas case about excluding some non-voting populations from redistricting.</p> <p>For us, in Franklin County, the decision was not whether to count incarcerated people, but where they should rightly be counted, which we think is at their home of record. We had no right to count prisoners as local constituents, they relied on the representative services of their home legislators, and there is nothing that one of our county legislators could do for them.</p> <p>Removing the prison population was the best we could do because we lacked authority over the redistricting bodies of the New York City Council, the Albany City Council and the other home locations of the incarcerated people. As I, along with two neighbors wrote to you in our July 9, 2004 comment letter: "We know of no complaints from prisoners as a result, as they no doubt look to the New York City Council for the local issues of interest to them."</p> <p>Thankfully, New York State took things one step further with the passage of Part XX (ending prison gerrymandering at the state and local levels) which made sure that all state prisoners are counted in the appropriate locations. This is legislation that I and many of my neighbors supported. And while I support Part XX, I must note that the law had one shortcoming that only the Census Bureau can fix: Part XX did not reallocate federal prisoners to their homes; it simply removed them from the count.</p> <p>The Census Bureau is the only entity which can provide a complete solution to the redistricting confusion caused by the current "usual residence rule." I urge you to adjust this policy and count all prisoners at their homes of record in the next federal Census.</p>
c98	<p>My name is _____. For over 25 years, I have provided redistricting expertise to civil rights organizations, community groups, and local governments across the country. I estimate that I have developed state and local election plans for at least 750 jurisdictions in about 40 states -- primarily in the American South and Rocky Mountain West (Indian Country). I have testified in federal courts on voting matters in about 35 cases and submitted declarations or been deposed in an additional 50 cases.</p> <p>I always recommend to local-level clients that the prison population should be removed or reallocated to establish an apportionment base that is in keeping with the principle of one-person, one-vote. But this adjustment is not always possible to do, given the current structure of the PL94-171 files and some state and local laws that restrict the apportionment base to the counts in the PL94-171 files.</p> <p>I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility where they happen to be located on Census Day. Below are four specific steps that I believe you must take for the 2020 Census to more accurately reflect present-day demographic realities.</p>

	<p>(1) Reassign or reallocate all adults in prisons and jails to their home address. This single step would eliminate a distortion in the complete count Census that often results in extreme violations of the one-person, one-vote constitutional principle in state and local election plans.</p> <p>(2) Cordon off all prisons and jails (using building footprints) into 2020 census blocks that contain only incarcerated persons. This step is necessary because some percentage of the incarcerated population will continue to list prison and jail facilities as their home address. This will facilitate overpopulating prison-impacted districts to meet one-person, one-vote requirements in statewide election plans and allow for the removal or reassignment (using other official prisoner address documents not relied upon by the Census Bureau) of this remaining non-voting population in local election plans.</p> <p>(3) Release an Advance Group Quarters Summary File as I understand you plan to do, within the PL94-171 files (I use the 2010 Advance Group Quarters Summary File almost every day to identify prisons, college dorms, military bases, etc. as I develop election plans. I cannot overstate how useful the 2010 file has been for my work.) The 2020 Advance Group Quarters Summary File will be extremely helpful to identify any of the remaining incarcerated persons who report prison facilities as their home address, as noted in (2) above.</p> <p>(4) Release a complete count census block-level summary file that tallies the reallocated prison population by race, age, and ethnicity. I have in mind that this file would be identical in format to the PL94-171 file. It should be released no later than the early summer of 2021. This block-level summary file is critical for Voting Rights Act “ability to elect” analysis -- especially for districts that are close to having 50% minority voting-age populations.</p> <p>In conclusion, the incarcerated population in the United States is now about 2.3 million. There are 16 states with populations that are less than 2.3 million. A summary file as noted in (4) above is important for various social policy and programmatic reasons unrelated to election plans, such as community development, targeted neighborhood-level programs to reduce recidivism, academic research, etc. Such a summary file will pay for itself over time.</p> <p>Thank you for the opportunity to comment on the Residence Rule and Residence Situations, as it pertains to the 2020 Census.</p>
c99	<p>I am writing in response to your federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015). Thank you for asking for input from the public.</p> <p>I was once incarcerated. My last residence prior to my incarceration in various Upstate New York prisons was in Queens, New York City. But, I was always counted as if I were a resident of the prison where I was incarcerated.</p> <p>This most respectfully skews the results of the census so badly, that one is forced to ask: “What is the point of using the census results to ascertain political representation?”</p> <p>For example. I was in _____ in the town of Warwarsing for some years, and in that town this is what the Census in 2010 showed: According to the 2010 Census : Total number or residents in Warwarsing: 13,157 Total prison population in Warwarsing: 1,723</p> <p>Thus 13% more people are counted as living in Warwarsing than actually live there. As a result Warwarsing is allocated 13% political</p>

	<p>representation more than it should have. Representation which some other community is being deprived of. Like the community I lived in before I was incarcerated for example. And, if you add to that equation the evidence that that African-Americans and Latinos are disproportionately incarcerated, then the figures may even be more seriously skewed for incarcerated members of these communities.</p> <p>I urge you therefore to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The present system of counting residences in a community, may have worked before the 1980's when the number of people in prison in the U.S. was much lower than it is now. But now, as your own Census Bureau data shows: The count is so skewed, it cannot be considered accurate.</p> <p>In which case one has to ask why bother doing a census at all if the results are inaccurate up to 13% and perhaps even more?</p> <p>Before closing I would like to thank you again for requesting public feedback. This is a very important part of the democratic process.</p>
c100	<p>My name is ____ I spent a considerable amount of time in Federal Prison despite never being convicted of a crime. It is because I have never been convicted that my voting rights remain intact. I was not aware for most of my incarceration that I was being counted in the various states of my incarceration for certain purposes but would be denied the right to vote in those states due to a lack of residency.</p> <p>In 2014 while being held in the United States Medical Center for Federal Prisoners in Springfield, Missouri I attempted to register to vote. I received the voting registration forms and submitted them to the Greene County Clerk. I received mail stating that my registration was not completed because I had not submitted identification and I did not provide an acceptable address. I assumed this to mean that I could not use a P.O. Box as an address and I corrected this by resubmitting my form with a copy of identification and the physical address of the facility. Even at this point the Greene County clerk refused to complete my registration on the grounds that I was not considered a resident for voting purposes despite being counted as a resident for districting purposes. For this level of disenfranchisement to exist in the United States in 2015 is incredibly alarming and in need of immediate attention at all levels of federal and state government.</p>
c101	<p>The NAACP Legal Defense and Educational Fund, Inc. ("LDF") submits this comment letter in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015), ("Rule"). Beginning with the 2020 Census and each subsequent decennial census, LDF urges the Census Bureau to count incarcerated people as residents of their last known pre-arrest home address, rather than of the particular prison facility where they happen to be located on Census day. Not only would this change to the Rule be consistent with many state laws, whereby incarcerated people maintain their pre-arrest address and do not lose that residence by virtue of being temporarily incarcerated, but also it would help bring the redistricting processes of states and localities into greater conformity with fundamental principles of an inclusive democracy.</p> <p>Founded under the leadership of Thurgood Marshall, LDF, now in its 75th anniversary year, is the nation's oldest civil rights and racial justice law firm. One of LDF's core missions is the achievement of the full, equal, and active participation of all Americans, particularly Black Americans, in the political process.¹ Consistent with this mission, LDF has advocated – through litigation and public policy – for the elimination of prison-based gerrymandering, the practice by states and localities of counting, for redistricting purposes, incarcerated people as residents of the prison facilities where they are held, rather than where they actually lived prior to their arrest.²</p> <p>In carrying out prison-based gerrymandering, states and localities often rely on Census data and, under the current Rule, the Census Bureau counts incarcerated people where they are confined.³ As explained in further detail below, however, prison-based gerrymandering is unlawful precisely because it artificially inflates population numbers, and thus, the political influence, of districts</p>

where prisons are located, at the expense of voters living in all other districts. Indeed, prison-based gerrymandering is all-too reminiscent of the infamous “three-fifths compromise,” whereby enslaved and disfranchised African American people were counted to inflate the number of constituents in—and thus, the political influence of—Southern states before the Civil War.⁴

On previous occasions, LDF has called upon the Census Bureau to change its Rule⁵ to count incarcerated people at their last known pre-arrest home address, not where they are incarcerated, to: (1) conform with legal principles on residence; (2) conform with the ordinary definition of resident; (3) avoid inflating the political power of more rural and suburban areas where prisons tend to be located and where white residents predominantly live, at the expense of urban areas where there are fewer prisons and minority communities predominantly live; and, (4) provide a more accurate picture of the nation.

First, the current Rule, which counts incarcerated people as residents of the facilities wherein they are incarcerated, contravenes basic legal principles on residence. Nearly every state has a constitutional provision or statute providing that a person does not gain or lose residence in a place by virtue of being incarcerated. Rather, an incarcerated person typically “retains the legal residence that he or she had prior to arrest, and continues to maintain residence in that county for a variety of purposes, such as court and tax filings.”⁶ For example, under Connecticut state law, a person does not gain or lose legal residence by virtue of being incarcerated,⁷ and, similarly, under Rhode Island state law, a person’s domicile shall not be lost based on confinement in a correctional facility.⁸

Second, incarcerated people are not residents, in the ordinary sense of the word, of the areas in which they are confined. Most fundamentally, in the overwhelming majority of states, incarcerated people cannot vote as residents of the places where they are confined.⁹ And, in the limited places where incarcerated people are permitted to vote, as in Maine and Vermont, they do so by absentee ballot in their home communities.¹⁰ Incarcerated people do not choose the places in which they are confined and can be moved at any time at the discretion of prison officials.¹¹ Wherever they are located, incarcerated people do not interact with or develop meaningful and enduring ties to the communities surrounding the prison facilities since, for example, they cannot use local services such as parks, libraries, highways, and roads.

Third, counting incarcerated people as residents of the places in which they are confined artificially inflates the population numbers, and thus, the political influence of the residents in districts where prisoners are located, to the detriment of all other voters who do not live in districts with prisons.¹² Additionally, by counting incarcerated people as residents of the facilities where they are incarcerated, rather than in the place where they lived prior to incarceration, Census data suggests many counties are racially and ethnically diverse, even when this is not the reality.¹³ Subsequently, officials use that flawed data to draw legislative districts, and the districts that gain political clout are often places where diverse populations have little presence, voice, or influence.¹⁴

Indeed, the stark racial and ethnic disparities that exist between those in prison and those living in the surrounding county, due at least in part from the prison construction boom, which took place primarily in rural areas, is distressing. For example, in Martin County, Kentucky, 884 incarcerated Black individuals make up 56 percent of the incarcerated population, but 12 Black residents make up only about 1 percent of the county’s non-incarcerated population.¹⁵

Ultimately, artificial inflation of voting power often benefits more rural and suburban areas where prisons tend to be located and where white residents predominantly live.¹⁶ Conversely, this artificial inflation dilutes the voting strength of urban areas where prisons are fewer and, thereby, weakens the political power of minority communities. This contravenes the constitutional principle of one person, one vote, which requires that everyone is represented equally in the political process,¹⁷ as well as the prohibition by the Voting Rights Act, now celebrating its 50th anniversary year, on the dilution of the voting strength of minority communities.¹⁸

For example, after the 2000 Census, while 68 percent of Maryland’s incarcerated individuals were from Baltimore, the Census Bureau counted only 17 percent of the state’s incarcerated individuals in that City.¹⁹ Maryland responded to this distortion of its legislative districts in 2010 by passing legislation, which requires certain officials to work in tandem to adjust population data so that incarcerated individuals are counted at their last-known residence for Congressional, state, and local redistricting.²⁰

Similarly, after the 2000 Census, in New York, seven state senate districts met minimum population requirements only because the Census counted incarcerated people as if they were upstate residents.²¹ New York responded to this artificial inflation of these legislative districts by passing legislation to adjust the population data after the 2010 Census to count incarcerated people at their respective homes for redistricting purposes.²²

Maryland and New York are not the only leading jurisdictions to take action statewide to end the problem of prison-based gerrymandering. Other states, like California and Delaware have passed similar laws,²³ and over 200 local counties and municipalities, have all individually adjusted population data to avoid prison-based gerrymandering when drawing their districts.²⁴ Notably, the democracy-distorting effects of prison-based gerrymandering are felt most keenly at the local level where total population numbers are smaller and the presence of large prison facilities can have a greater skewing effect.

Meanwhile, other states, like Illinois, where, for example, 60 percent of incarcerated people have their home residences in Cook County (Chicago), yet 99 percent of them were counted in the 2010 Census as if they resided outside of Cook County,²⁵ have considered legislation to respond to such artificial inflation.²⁶

Despite progress on these fronts, this ad hoc—state by state and locality by locality— approach to addressing prison-based gerrymandering is neither efficient nor universally implementable. The Massachusetts Legislature, for example, concluded that the state constitution did not permit legislation to eliminate the practice of prison-based gerrymandering; though, in recognizing the need to address the problematic practice, the Legislature sent the Census Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses.²⁷ The Bureau should heed these calls to update the Rule.

Consistent with the Bureau’s notice inviting comments on the Rule, and the Census Bureau’s agreement in 2010 to make prisoner population numbers available to states and localities in time for those figures to be taken into account in the redistricting process, LDF recognizes that the Census Bureau continues to strive to count everyone in the right place in keeping with changes in society and population realities. And, indeed, society has changed with the incarcerated population in the U.S. exploding from less than half a million in the 1980s to over two million people today.²⁸ This incarcerated population is disproportionately male and Black and Brown.²⁹ Accordingly, the current Rule should be updated to count incarcerated people at their last known pre-arrest address rather than the prison facility where they are confined on Census day.

By changing the current Rule, the Census Bureau will support state and localities’ efforts to ensure compliance with the one-person, one vote constitutional principle and the Voting Rights Act’s protection of minority communities’ voting strength. Ultimately then, an updated and more accurate Rule that counts incarcerated people at their pre-arrest address, rather than at the prison facilities where they are incarcerated, will help ensure a more robust democracy for the benefit of all Americans.

Thank you for this opportunity to comment on the Rule. If you have any questions or concerns, please do not hesitate to contact _____, Assistant Counsel, at _____ or me.

¹ LDF has represented parties in voting rights cases before federal courts throughout the country and the U.S. Supreme Court. *See, e.g.,*

Shelby County Alabama v. Holder, 570 U.S. 2 (2013) (defending the constitutionality of Section 5 of the Voting Rights Act); *Nw. Austin Mun. Util. Dist. No. One v. Holder* 557 U.S. 193 (2009) (same); *Thornburg v. Gingles*, 478 U.S. 30 (1986) (defining the scope of Section 2 of the Voting Rights Act); *Smith v. Allwright*, 321 US 649 (1944) (abolishing the white primary).

² See, e.g., Brief of the Howard University School of Law Civil Rights Clinic, the American Civil Liberties Union of Maryland, the Maryland State Conference of the NAACP Branches, Somerset County Branch of the NAACP, the NAACP Legal Defense and Educational Fund, Inc., the Prison Policy Initiative and DEMOS as Amici Curiae Supporting Respondents, *Fletcher v. Lamone*, 831 F. Supp. 2d 887 (D. Md. 2011), *aff'd*, 133 S. Ct. 29 (2012), <http://www.naacpldf.org/document/fletcher-v-lamone-brief-naacp-legal-defense-and-educational-fund-inc-et-al> (arguing for the constitutionality of Maryland’s legislation, “No Representation Without Population Act,” which, for purposes of redistricting, credited incarcerated people to their last known address); Decision/Order, Index No. 2310-201, *Little v. Latfor* (N.Y. Sup. Ct. Aug. 4, 2011), <http://www.naacpldf.org/document/order-granting-intervention> (granting motion to intervene of LDF, the Brennan Center for Justice, the Center for Law and Social Justice, Dēmos, LatinoJustice PRLDEF, the New York Civil Liberties Union, and the Prison Policy Initiative, to defend New York’s Part XX legislation to end prison-based gerrymandering).

See also Letter from Leah C. Aden, Assistant Counsel, LDF, to Cale P. Keable, Chairperson, Rhode Island House Committee on the Judiciary, Apr. 13, 2015, [http://www.naacpldf.org/document/letter-urges-rhode-island-house-committee-judiciary-pass-pending-legislation-ending-prison-\(urging-the-Rhode-Island-legislature-to-pass-legislation-to-end-prison-based-gerrymandering-in-the-state\)](http://www.naacpldf.org/document/letter-urges-rhode-island-house-committee-judiciary-pass-pending-legislation-ending-prison-(urging-the-Rhode-Island-legislature-to-pass-legislation-to-end-prison-based-gerrymandering-in-the-state)); *Hearing Regarding HB 6679 Before the Connecticut General Assembly Joint Committee on Judiciary*, Apr. 1, 2013, <http://www.cga.ct.gov/2013/JUDdata/Tmy/2013HB-06679-R000401-Leah%20Aden%20%20NAACP%20Legal%20Defense%20and%20Educational%20Fund-TMY.PDF> (urging the Connecticut legislature to pass legislation to end prison-based gerrymandering in the state); *Hearing Before the Kentucky General Assembly Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs*, Aug. 23, 2011, <http://www.naacpldf.org/document/da-le-ho-testimony-kentucky-prison-based-gerrymandering> (urging the Kentucky legislature to pass legislation to end prison-based gerrymandering in the state); *Hearing Regarding AB 420 Before the California State Senate Committee on Elections and Constitutional Amendments*, June 21, 2011, <http://www.naacpldf.org/document/da-le-ho-california-testimony> (urging the California legislature to pass legislation to end prison-based gerrymandering in the state).

³ While there is no requirement that states and localities rely exclusively on Census data during redistricting, states and localities commonly do. See, e.g., *Bethel Park v. Stans*, 449 F.2d 575, 583 (3rd Cir. 1971) (“Although a state is entitled to the number of representatives in the House of Representatives as determined by the federal census, it is not required to use these census figures as a basis for apportioning its own legislature.”).

⁴ NAACP LDF, CAPTIVE CONSTITUENTS: PRISON-BASED GERRYMANDERING AND THE DISTORTION OF OUR DEMOCRACY at 2, available at http://www.naacpldf.org/files/case_issue/captive_constituents.pdf (last visited Jun. 23, 2015) [hereinafter *Captive Constituents*].

⁵ See, e.g., Letter From Stakeholders to Thomas Mesenbourg, Acting Director, U.S. Census Bureau (Feb. 14, 2013) (<http://www.prisonersofthecensus.org/letters/feb2013.html>).

⁶ *Captive Constituents*, *supra* n.4 at 2.

⁷ Gen. Stat. Conn. 9-14 (“Electors residing in state institutions. No person shall be deemed to have lost his residence in any town by reason of his absence there from in any institution maintained by the state. No person who resides in any institution maintained by the state shall be admitted as an elector in the town in which such institution is located, unless he proves to the satisfaction of the admitting official that he is a bona die resident of such institution.”).

⁸ Rhode Island General Laws § 17-1-3.1 Residence for voting purposes (“(a) A person’s residence for voting purposes is his or her fixed and established domicile. The determinant of one’s domicile is that person’s factual physical presence in the voting district on a regular basis incorporating an intention to reside for an indefinite period. This domicile is the place to which, upon temporary absence, he or she has the intention of returning. Once acquired, this domicile continues until another domicile is established. A person can have only one domicile, and the domicile shall not be considered lost solely by reason of absence for any of the following reasons: . . . (2) confinement in a correctional facility . . .”)

⁹ Peter Wagner & Christian de Ocejio, Prison Policy Initiative, *Imported Constituents: Incarcerated People and Political Clout in Connecticut* (Mar. 25, 2010), available at <http://www.prisonersofthecensus.org/ct/report.html> (last visited Mar. 31, 2013)).

¹⁰ *Captive Constituents*, *supra* n.4.

¹¹ *Legal Defense Fund Applauds Legislation Ending Prison-based Gerrymandering*, NAACP LDF (Aug. 4, 2010),

<http://www.naacpldf.org/press-release/legal-defense-fund-applauds-legislation-ending-prison-based-gerrymandering-new-york>.

¹² See *PRISON POLICY INITIATIVE, THE PROBLEM*, <http://www.prisonersofthecensus.org/impact.html> (last visited June 23, 2015).

¹³ In 2010, there existed 161 counties where incarcerated Black individuals outnumber non-incarcerated Black individuals. See *PRISON POLICY INITIATIVE, THE RACIAL GEOGRAPHY OF MASS INCARCERATION*, <http://www.prisonpolicy.org/racialgeography/report.html> (last visited July 16, 2015).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Although non-metropolitan counties contain only 20 percent of the national population, they are host to approximately 60 percent of new prison construction. *Captive Constituents*, *supra* n.4 at 3.

¹⁷ The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution requires that electoral representation—other than to the United States Senate—“be apportioned on a population basis.” See *Reynolds v. Sims*, 377 U.S. 533, 567 (1964).

¹⁸ Section 2 of the Voting Rights Act prohibits any “voting ... standard, practice, or procedure...which results in the denial or abridgment of the right of any citizen of the United States to vote on account of race or color.” 42 U.S.C. § 1973. Section 2 also prohibits voting practices that deny the right to vote outright on the basis of race, and those practices that have a dilutive effect on minority vote power. See *Bartlett v. Strickland*, 556 U.S. 1 (2009).

¹⁹ *PRISON POLICY INITIATIVE, ENDING PRISON-BASED GERRYMANDERING WOULD AID THE AFRICAN-AMERICAN VOTE IN MARYLAND* (January 22, 2010), <http://www.prisonersofthecensus.org/factsheets/md/africanamericans.pdf>.

²⁰ H.B. 496, 2015 Reg. Sess. (Md. 2010) (Entitled “No Representation Without Population Act of 2010”) (stating “[t]he population count ...shall count individuals incarcerated in the state or federal correctional facilities, as determined by the decennial census, at their last known residence before incarceration if the individuals were residents of the state.”)

The U.S. Supreme Court subsequently denied a request to consider a challenge to the constitutionality of Maryland’s landmark legislation. NAACP LDF, *United States Supreme Court Affirms Landmark Law Ending Prison Based Gerrymandering*, <http://www.naacpldf.org/update/united-states-supreme-court-affirms-maryland%E2%80%99s-landmark-law-ending-prison-based-gerrymandering>

²¹ *PRISON POLICY INSTITUTE, Gerrymandering and Relying on the Miscalculation of Prisoners Combine to Violate the U.S. Constitution in New York* (last visited July 6, 2015), <http://www.prisonersofthecensus.org/nygerrymander.html>.

²² A. 9710/ S. 6610-C, 233rd Leg., 2010 N.Y. Sess. Laws 57 (McKinney) (“...For such purposes, no person shall be deemed to have gained or lost a residence, or to have become a resident of a local government, as defined in subdivision eight of section two of this chapter, by reason of being subject to the jurisdiction of the department of correctional services and present in a state correctional facility pursuant to such jurisdiction.”).

²³ An Act to Add Section 21003 to the Elections Code, Relating to Redistricting, AB 420, 2011-12 Reg. Sess. Ch. 548 (Cal. 2012) (“...the Legislature hereby requests the Citizens Redistricting Commission to deem each incarcerated person as residing at his or her last known place of residence, rather than at the institution of his or her incarceration, and to utilize the information furnished to it ... in carrying out its redistricting responsibilities.”); An Act to Amend Title 29 of the Delaware Code Relating to State Government, H.B. 384, 145th Gen. Ass. (Del. 2010) (“The Act provides that the General Assembly may not count as part of the population in a given district boundary any incarcerated individual who was not a resident of the State prior to the individual’s incarceration. In addition, the Act requires that an individual who was a resident of the State of Delaware prior to incarceration be counted at the individual’s last known residence prior to incarceration, as opposed to at the address of the correctional facility.”)

²⁴ *PRISON POLICY INITIATIVE, Local Governments That Avoid Prison-based Gerrymandering*, <http://www.prisonersofthecensus.org/local/> (last updated July 3, 2015).

²⁵ Rose Heyer & Peter Wagner, *Too Big to Ignore: How Counting People in Prisons Distorted Census 2000*, PRISONERS OF THE CENSUS (Apr. 2004), <http://www.prisonersofthecensus.org/toobig/toobig.html#ftnref3>.

²⁶ During the 2014 and 2015 legislative sessions, the Illinois Legislature has considered legislation to end prison-based gerrymandering. *PRISON POLICY INITIATIVE, Illinois*, <http://www.prisonersofthecensus.org/illinois.html>.

During multiple legislative sessions, the Connecticut legislature also has considering legislation to address the practice of prison-based gerrymandering. See LDF Testimony before Connecticut General Assembly, Joint Committee on Judiciary, at 2,

	<p>http://www.cga.ct.gov/2013/JUDdata/Tmy/2013HB-06679-R000401-Leah%20Aden%20-%20NAACP%20Legal%20Defense%20and%20Educational%20Fund-TMY.PDF; <i>See also supra</i> n.2 (reflecting consideration by Kentucky and Illinois to end prison-based gerrymandering).</p> <p>²⁷ Massachusetts General Court Resolution, <i>Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’</i> (adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014); <i>see also</i> PRISON POLICY INITIATIVE, <i>Massachusetts Legislature Calls on U.S. Census Bureau: Support Fair Redistricting, End Prison Gerrymandering</i> (Sept. 30, 2014), http://www.prisonersofthecensus.org/news/2014/09/30/mass-fair-redistricting/.</p> <p>²⁸ <i>See</i> U.S. DEP’T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, PRISONERS IN 2008, at 8 (Dec. 2009), http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1763 (tabulating the total incarcerated population at 2,304,115).</p> <p>²⁹ PRISON POPULATION Initiative, <i>Breaking Down Mass Incarceration in the 2010 Census: State-by-State Incarceration Rates by Race/Ethnicity</i> (May 28, 2014), http://www.prisonpolicy.org/reports/rates.html; <i>see also</i> Bruce Drake, <i>Incarceration Gap Widens Between Whites and Blacks</i>, PEW RESEARCH CENTER (Sept. 6, 2013), http://www.pewresearch.org/fact-tank/2013/09/06/incarceration-gap-between-whites-and-blacks-widens/.</p>
c102	<p>After the 2010 census, my students at DePauw University, located in Putnam County, Indiana, did a project on local government redistricting. As part of this process, we found that some of Indiana’s 23 state and 3 federal prisons were distorting representation in local governments, sometimes dramatically.</p> <p>For example, we have four school corporations and one major state prison in our county. At the time of the 2010 census, the South Putnam School Board had four single-member electoral districts plus one member elected at-large. Seventy percent of the “residents” of one of those electoral districts were actually prisoners in Putnamville prison. The 765 “free residents” of that district elected one board member, as did the 2,493 residents of the school board’s most populous district. Thus, voters in the district with a prison had nearly four times the electoral power of voters in the district without a prison. We persuaded the South Putnam School Board to switch to residential districts rather than single-member electoral districts to address this problem, but Henry, Madison, and Vigo were other counties that used single member electoral districts and in which sizable portions of one school board district were prisoners.</p> <p>School boards were not the only local governments in which we saw dramatic effects. The Sullivan County Council has four members elected from single-member districts (plus three at-large seats). In 2010, Sullivan County had 21,475 residents. Thus, the ideal size of each of the four county council districts would be 5,369. The Wabash Valley correctional complex had 2,118 prisoners or 39% of one district. We found 7 other counties (Henry, LaPorte, Madison, Miami, Parke, Perry and Vigo) where large prisons or prison complexes were seriously distorting democratic representation. My students created a informative website on every county council in Indiana, including maps and analysis, which you might find of interest: http://indianalocalredistricting.com/counties</p> <p>Counting prisoners as residents of their prison rather than as residents of their home undermines one-person-one-vote by giving greater electoral power to those who happen to live near prisons than to other members of their community or district who do not live near a prison. Furthermore, unlike other transient populations who live in group quarters, such as college students and military families, prisoners are disenfranchised, their residency is non-voluntary, they do not participate in the local economy, they are not beneficiaries of local government decisions, which they are powerless to influence, and, in the case of school board districts, prisoners rarely have children who attend local schools.</p> <p>A survey of all members of the Indiana House of Representatives in 2004 showed that our elected officials who happen to have prisons in their districts do not consider the prisoners to be their constituents. The survey asked:</p> <p style="text-align: center;">Which inmate would you feel was more truly a part of your constituency?</p>

	<p>a) An inmate who is currently incarcerated in a prison located in your district, but has no other ties to your district.</p> <p>b) An inmate who is currently incarcerated in a prison in another district, but who lived in your district before being convicted and/or whose family still lives in your district.</p> <p>To quote the study:</p> <p>"Every single one of the forty respondents who answered the question - regardless of their political party or the presence or absence of a prison in their district - chose answer (b). . . . [I]t is quite clear that representatives do not consider inmates to be constituents of the districts in which they are incarcerated - unless, of course, they happen to have prior ties to those districts." ("Counting Matters," <i>Virginia Journal of Social Policy and the Law</i>, Winter 2004)</p> <p>Electoral equality and representational equality in Indiana would be best served by not counting prisoners as residents of the prison where they happen to be incarcerated at the time of the census.</p>
c103	<p>In response to the Census Bureau's <i>Federal Register Notice and Request for Comment</i> dated May 20, 2015, the League of Women Voters of New Jersey respectfully submits this comment regarding Residence Rule and Residence Situations, 80 FR 28950.</p> <p>The League of Women Voters of New Jersey urges you to count incarcerated people as residents of their legal home addresses. The Census Bureau is "committed to counting every person in the correct place...to fulfill the Constitutional requirement (Article 1, Section 2) to apportion the seats in the US House of Representatives among the states."¹ For fair and equitable apportionment for legal voters, counting incarcerated populations at a correctional institutional is counting them at the incorrect location, one in which they happen to be temporarily located on Census day.</p> <p>The League of Women Voters has been dedicated to protecting voter's rights since our organization was founded in 1920. The League's mission – Making Democracy Work® – includes ensuring a free, fair and accessible electoral system for all eligible voters. In protecting voting rights, we also want to ensure that each vote carries equal weight when electing state and federal legislators.</p> <p>Counting incarcerated people at their facility address violates the constitutional principle of "One Person, One Vote" and the Supreme Court's mandate that districts be designed to give each resident the same access to government.² Including prison populations as legitimate constituents in the prison's district gives disproportionate weight to the votes of those legal voters living in that district, more weight than voters living in districts that do not have correctional facilities.</p> <p>The consequences of the Census Bureau's policy of tabulating incarcerated people as residents of prison locations, rather than at their home addresses, skews democracy on both the state and local levels and is especially problematic in New Jersey where this policy unfairly enhances the weight of cast vote in 13 districts where state correctional facilities are located while diluting the vote in every other district.^{3,4}</p> <p>This is particularly unfair for residents in Newark, New Jersey's largest city, where the added prison population does not offset the disproportionate number of residents that have been incarcerated and counted in a different district.⁵ Another urban center, Camden, is considered the poorest city in the nation and prison gerrymandering has reassigned 12% of its residents to faraway districts, diluting further the power of the remaining voters.⁶</p>

	<p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. For New Jersey, that number represents 76% of offenders in New Jersey correctional institutions as of January 2015.⁷</p> <p>The League of Women Voters of New Jersey also has identified other unfair outcomes flowing from the Bureau's current method of counting incarcerated persons. For example, New Jersey does not require school board districts based on population that have 8 or fewer members to exclude correctional populations when apportioning county districts thereby creating significant vote dilution in districts with prison populations.⁸</p> <p>We have previously called upon the Census Bureau to change its practice when the League joined in a letter to Census Bureau Acting Director Thomas Mesenbourg (of February 14, 2013), requesting that the Census Bureau count incarcerated persons at their home address.⁹ The League will continue to watch the NJ Senate Bill 480 and Assembly Bill A-659 that require incarcerated individuals to be counted at their residential address for legislative redistricting purposes.¹⁰</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because the League of Women Voters of New Jersey believes in a population count that accurately represents communities, we urge you to implement changes to the 'usual residence' rule to provide a count in the 2020 Census of incarcerated persons at their pre-incarceration addresses.</p> <p>¹ http://www.census.gov/population/www/cen2010/resid_rules/resid_rules.html ² http://www.njleg.state.nj.us/legislativepub/our.asp Legislators are elected from 40 legislative districts of substantially equal population. ³ http://www.state.nj.us/corrections/pages/about_us/org_struct/Division_of_Ops.html ⁴ This count does not include a 14th state facility opened since the 2010 Census. http://www.prisonersofthecensus.org/50states/newprisons.html ⁵ 14% according to http://www.state.nj.us/corrections/pdf/offender_statistics/2015/By%20County%20of%20Commitment%202015.pdf ⁶ http://www.state.nj.us/corrections/pages/about_us/org_struct/Division_of_Ops.html and http://www.state.nj.us/corrections/pdf/offender_statistics/2015/By%20County%20of%20Commitment%202015.pdf ⁷ http://www.state.nj.us/corrections/pdf/offender_statistics/2015/By%20Ethnicity_Race%202015.pdf ⁸ http://www.prisonersofthecensus.org/50states/NJ.html ⁹ http://lwv.org/content/league-urges-census-bureau-end-prison-based-gerrymandering ¹⁰ https://legiscan.com/NJ/text/S480/id/916795/New_Jersey-2014-S480-Introduced.html</p>
c104	<i>This comment submission contains graphics and cannot be displayed in this table. It is available as Appendix Attachment c104.</i>
c105	<p>The Center for Living and Learning 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because [org name] believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c106	Common Cause Delaware (CCDE) and Delaware Americans for Democratic Action (ADA) submit 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). We urge

you to count incarcerated people at their home addresses, rather than at the particular facility that they happen to be located at on Census day.

Ensuring that redistricting is impartial and that legislative lines are drawn in a fair and transparent way is part of the core mission of both CCDE and ADA to promote civic engagement and accountability in government, as is ensuring that every eligible American's vote is counted fairly. Counting incarcerated persons as residents of the district in which they are temporarily held has the effect of unfairly enhancing the political power of those who live and vote in the prison district, while unfairly diluting the votes of those in districts without prisons. Legislators with a prison in their district should not get a bonus for keeping the prison full. This dynamic hurts our democracy, and it hurts the communities from which these incarcerated persons hail.

As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the explosion in the prison population requires the Census to update its methodology again. A fair redistricting process not only involves complying with the federal law of "one person, one vote" but also with the federal Voting Rights Acts of 1965 which protects minority communities' opportunities "to participate in the political process and to elect representatives of their choice."

The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.

Currently, four states including our own (California, Delaware, Maryland, and New York) have taken a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities individually adjust population data to avoid prison gerrymandering, when drawing their local government districts.

In 2010, Delaware became the second state to pass a law to end prison-based gerrymandering. House Bill 384 required the Department of Correction to collect the home addresses of incarcerated people and required the legislature to draw its districts on the basis of Census Bureau data corrected to count incarcerated people at their home addresses. The Department of Corrections collected and transmitted the address information but, unfortunately, the state was unable to arrange for the geocoding of this address data in time for the legislature's deadline on making their proposals public and had to, reluctantly, postpone full implementation until 2021. A change in the residence rule for incarcerated people by the Census Bureau would meet the state's needs in a much more streamlined fashion.

We're proud Delaware took the first step towards undoing prison-based gerrymandering, but it hasn't been a smooth process, and there is a better way. This ad hoc approach in a few states is neither efficient nor universality implementable. If the Census Bureau would change its practice of counting incarcerated individuals at their home address rather than at the prison location, it would significantly alleviate the burden on state and local agencies and provide an efficient solution to greatly improve the fairness of apportionment and representation for millions of Americans. As you well know, states across the country look to the Census Bureau as the nation's foremost expert on national demographics and data, and more often than not count incarcerated persons the way the Bureau does. Once the Bureau leads the way with an update to a now outdated practice, states are sure to follow.

Thank you for this opportunity to comment on the Residence Rule and Residence Situations; we appreciate the Bureau's aim to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause Delaware and Delaware Americans for Democratic Action believe in a population count that accurately represents communities, we urge you to count

	incarcerated people as residents of their last-known home addresses.
c107	<p>Common Cause Minnesota 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Common Cause Minnesota works to insure every voice in every community is heard and that those we elect to serve in office are held accountable. Counting those incarcerated at the particular facility fails Minnesota’s democracy in two ways.</p> <p>First, counting prison populations as if they were actual constituents of the district the prison is located gives a few small communities more political power at the expense of everyone who does not live near a prison. The effect is that everyone who does not live in a district that contains a prison has their vote diluted by these artificially inflated populations.</p> <p>Second, counting prison populations in this way also creates a second and more serious problem here in Minnesota in that if people are being counted in prison, they are not being counted in their home community. 47% of people currently incarcerated are people of color which is a huge disparity with the 18.1 % people of color represent in Minnesota’s population. In turn, the communities in which those incarcerated lived are now under-represented in terms of their size for every elected official, from city council all the way to their congressional representation.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universality implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because [org name] believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c108	<p>On behalf of the NAACP, our nation’s oldest, largest and most widely-recognized grassroots-based civil rights organization, I would like to submit this letter as a comment on the Census Bureau’s federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950, issued on May 20, 2015. We strongly support the Census Bureau’s counting incarcerated people at their most recent residence prior</p>

to incarceration, rather than at the particular facility in which they are incarcerated in on Census day.

As was recently described in its report “The Racial Geography of Mass Incarceration,” the Prison Policy Initiative found that stark racial and ethnic disparities exist between incarcerated people and the people in the county outside the prison’s walls¹. The report found that the transfer of African American and Latino incarcerated people to communities very different than their own is a national problem not confined to select states. As a result, hundreds of counties have a 10-to-1 “ratio of over-representation” between incarcerated African Americans and African Americans in the surrounding county — meaning that the portion of the prison that is African American is at least 10 times larger than the portion of the surrounding county².

One example cited in the report is Martin County, Kentucky, which has a ratio of the percentage of its incarcerated population that is African American to the percentage of its non-incarcerated population that is African American of 529, because the 884 incarcerated African Americans make up 56% of the incarcerated population but the 12 African Americans freely living in the county make up only about 0.1% of the county’s free population³. This large scale census inaccuracy leads to Martin County, and similar counties like this all across our nation, as being considered diverse when they are not. Furthermore, because of felon dis-enfranchisement laws, the non-ethnic population has much more political power than the racial and ethnic minorities who reside among them. As a result, when state legislatures use that flawed data to draw legislative districts, they transfer African American political values to districts where African Americans have no voice.

The report concludes by saying that “this large-scale transfer of (African American) 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.”⁴

The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades; and as clearly demonstrated by the report cited above, the time to update this rule is now. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million people. But since then, the nation’s incarcerated population has more than quadrupled to over two million people. The manner in which this population is counted now has huge implications for the accuracy of the Census.

By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located.

As the Bureau strives to count everyone in the right place in keeping with changes in society and population realities, it is imperative that the changes proposed to the Residence Rule be updated. Because the NAACP believes in a population count that accurately represents communities, and because it so acutely impacts the people and we serve and represent, we urge you to count incarcerated people as residents of their home address.

Thank you again for the opportunity to comment on the Census Bureau’s Proposed Residence Rule. Should you have any questions or comments on the NAACP position, please feel free to contact me at _____.

¹ *The Racial Geography of Mass Incarceration*, July 2015, by Peter Wagner and Daniel Kopf, Prison Policy Initiative. Found at <http://www.prisonpolicy.org/racialgeography/report.html>

² Ibid

	³ Ibid. ⁴ Ibid.
c109	<p>Asian Americans Advancing Justice AAJC (Advancing Justice AAJC) 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Advancing Justice AAJC is a national non-profit, non-partisan organization founded in 1991. Advancing Justice AAJC’s mission is to advance the human and civil rights of Asian Americans, and build and promote a fair and equitable society for all. Our wide-ranging efforts include promoting civic engagement, forging strong and safe communities and creating an inclusive society. Advancing Justice AAJC is part of Asian Americans Advancing Justice (Advancing Justice), a national affiliation of five nonprofit organizations in Los Angeles and San Francisco, CA, Chicago, IL, Atlanta, GA and Washington, D.C. who joined to promote a fair and equitable society for all by working for civil and human rights and empowering Asian Americans and Pacific Islanders and other underserved communities. Additionally, 120 organizations are involved in Advancing Justice’s community partners network, serving communities in 29 states and the District of Columbia.</p> <p>Together with the Advancing Justice affiliates and our Community Partners, AAJC has been extensively involved in improving the current level of political and civic engagement among Asian American communities and increasing Asian American access to the voting process. We work on enforcement and protection of the VRA and other voting statutes, protection of the vote, and improvement of election administration. During the last redistricting cycle, we worked with the Advancing Justice affiliates and our local partners to ensure Asian American communities had a voice during the redistricting process and were able to work to keep their communities of interest together. Since those efforts, Advancing Justice AAJC has been engaged in conversations around redistricting reform and ensuring proper representation for all.</p> <p>We recognize that American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the nation’s incarcerated population has more than quadrupled to over two million people. The Asian American and Pacific Islander (AAPI) prison population increased by 30 percent from 1999 to 2004 while the white prison population rose by only 2.5 percent. During the prison boom in the 1990s, the AAPI prison population grew 250 percent to the overall prison population’s 77 percent. And a closer look at disaggregated data shows that mass incarceration has increasingly become more of an issue for specific AAPI communities. For example, according to a study by the Office of Hawaiian Affairs in 2010, Native Hawaiians comprised about 39 percent of Hawaii’s state prison population in comparison to the state’s overall Native Hawaiian population of 24 percent.¹ In California, a study found that 64.6 percent of the state’s AAPI prisoners were immigrants and refugees. The largest populations among them were Vietnamese (22 percent) and Filipino (19.8 percent), followed by Pacific Islanders (9.9 percent) and Laotians (8.5 percent).² Thus, the manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Illinois, for example, 60% of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99% of them as if they resided outside Cook County.</p>

	<p>When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. In New York after the 2000 Census, for example, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents. For this reason, New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes.</p> <p>New York State is not the only jurisdiction taking action. Three other states (California, Delaware, and Maryland) are taking a similar state-wide approach, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Advancing Justice AAJC believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p> <p>¹ Office of Hawaiian Affairs, Justice Policy Institute, University of Hawai‘i and Georgetown University, Report: The Disparate Treatment of Native Hawaiians in the Criminal Justice System, available at http://www.oha.org/governance/criminal-justice/</p> <p>² Sarita Ahuja and Robert Chlala, Asian Americans/Pacific Islanders in Philanthropy, Widening the Lens on Boys and Men of Color: California AAPI & AMEMSA Perspectives, available at http://www.asianprisonersupport.com/wp-content/uploads/2014/01/aapip_bymoc-final.screen.pdf.</p>
c110	<p>Common Cause/PA 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). Our organization strongly urges you to begin counting incarcerated individuals at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>For over four decades Common Cause/PA has been working to ensure that every citizen of our state who is entitled to vote has the opportunity to do so – and that every vote is counted as cast. However, voters also must believe their votes are meaningful if they are going to participate in elections, and have the opportunity to hold their elected officials accountable. That means we must have competitive elections and every voter’s vote must have nearly equal value. When incarcerated individuals – who cannot vote in Pennsylvania – are counted by the census at their penal facility residence instead of their pre-incarceration home address, that translates into inflated populations for penal institution municipalities. This skews the redistricting process. To ensure that every citizen’s vote carries relatively equal weight when legislative and congressional districts are designed, incarcerated persons must be counted at their pre-sentencing address.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated</p>

	<p>people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census, and ultimately on the fairness of redistricting.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Pennsylvania, this has resulted in significant skewing of legislative and congressional districts. Pennsylvania has 18 congressional districts with average populations of 705,688 residents. Over 51,000 inmates are incarcerated in 26 state prisons which are dispersed across twelve of those congressional districts (six districts have no state prisons), according to the PA Dept. of Corrections. Five congressional districts have one state prison; four have two state prisons; two have three state prisons; and the very large rural 5th Congressional District has seven state prisons. The problem becomes even more severe when it is applied to the much smaller state senate and legislative districts which respectively average 254,048 and 62,573 residents.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause/PA believes in a population count that accurately represents communities, we <u>urge you to count incarcerated people as residents of their home address.</u></p>
c111	<p>The State of Connecticut African-American Affairs Commission has as its mission to improve and promote the economic development, education, health and political well-being of the African-American community in the State of Connecticut.</p> <p>We strongly urge that the residence rules be changed in the 2020 census for people in correctional facilities for adults and people in juvenile facilities. As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>The great racial disproportionality in the make-up of the prison population skews the demographics for communities when doing census calculations and gives certain communities over representation in state legislatures. A prisoner is not a part of the community that they happen to end up incarcerated in therefore they should not be included in the population count.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. I <u>urge you to count incarcerated people as residents of their</u></p>

	home address.
c112	<p>Common Cause NY 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). Common Cause NY urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Ensuring that redistricting is impartial and that legislative lines are drawn in a fair and transparent way is part of our core mission to promote civic engagement and accountability in government. Counting people in prison as residents of the district in which they are incarcerated has the effect of unfairly enhancing the political power of those who live in the district with the prison in it while unfairly diluting the votes of those in districts without prisons. Legislators with a prison in their district should not get a bonus for keeping the prison full. This dynamic hurts our democracy.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again. A fair redistricting process not only involves complying with the federal law of “one person, one vote,” but also with the federal Voting Rights Acts of 1965 which protects minority communities’ opportunity “to participate in the political process and to elect representatives of their choice.”</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>Currently, four states including our own (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>After New York finally passed its law to end prison based gerrymandering, the NYS Legislative Task Force on Demographic Research and Reapportionment (LATFOR) was mandated to re-allocate state prisoners to their pre-incarceration home address. Part XX of Chapter 57 of the Laws of 2010 states:</p> <p style="padding-left: 40px;">“Upon receipt of such information for each incarcerated person subject to the jurisdiction of the department of correctional services, the task force shall determine the census block corresponding to the street address of each such person's residential address prior to incarceration (if any), and the census block corresponding to the street address of the correctional facility in which such person was held subject to the jurisdiction of such department. Until such time as the United States bureau of the census shall implement a policy of reporting each such incarcerated person at such person's residential address prior to incarceration, the task force shall use such data to develop a database in which all incarcerated persons shall be, where possible, allocated for redistricting purposes, such that each geographic unit reflects incarcerated populations at their respective residential addresses prior to incarceration rather than at the addresses of such correctional facilities.....The assembly and senate districts shall be drawn using such amended population data set.”</p> <p>Task Force technical staff adjusted the Census Bureau’s 2010 Public Law 94-171 data for New York State legislative redistricting. They created three statewide block-level files, which included every category necessary to accommodate the adjusted data and to make the Department of Correctional Services (DOCCS) data compatible with PL 94-171. The prisoner total to be subtracted from prison based census blocks was 60,708 in 2010. One file was generated with all of the geocoded prisoner addresses and racial/ethnic information from DOCCS (to be added to PL 94-171). Another file was created through aggregating racial and ethnic information by correctional facility</p>

	<p>and then disaggregating when prisons were located on multiple blocks. A third block-level file was produced for federal prisoners. The adjustment is based on: Adjusted PL = PL + Geocoded prisoner addresses – DOCCS facilities – Federal facilities. This process took a long time, with considerable bureaucratic delays. LATFOR did not complete its prisoner reallocation until 2012.</p> <p>Such prisoner reallocation greatly impacted how the people of NYS are represented. North Brooklyn Senate District 18, represented by Senator Martin Dilan, had the largest gain in reallocated prisoner population with 2,100 people. In total, Brooklyn Senate Districts gained over 8,500 people, and New York City as a whole gained over 21,000, mostly minority people. Assembly Districts 55 and 56 in central Brooklyn, both represented by African American women, also had significant gains in population after prisoner readjustment, 1,193 and 1,090 people respectively. In contrast, Senate District 45, which encompasses Clinton, Essex, Franklin, Saint Lawrence, Warren and Washington counties, lost over 12,000 of its population count due to the prisoner readjustment. According to a 2012 DOCCS report, almost half, or about 47%, of the incarcerated population had a home residence in the five boroughs of New York City, and only 12% were committed from Long Island, Rockland and Westchester counties. The rest of the incarcerated population came from upstate. Of the total incarcerated population, 49.5% was African-American and 23.6% Hispanic.</p> <p>The importance of re-knitting a community's once-fractured state of political representation cannot be overstated and many New York State's upstate counties also strengthened the voice of their minority communities through reallocation. For example, Monroe County gained almost 3,000 people, with over 2,000 African-Americans while Onondaga County counted almost 2,000 residents, over half of them minorities.</p> <p>There were several challenges with implementing New York's law, namely the technical challenges for LATFOR, partisan political opposition to applying the law's mandates and the extreme delays in receiving data from DOCCS, which deferred the entire redistricting process and complicated public engagement efforts of democracy advocates. Also, New York's 2010 law only requires population data to be adjusted for state Senate and Assembly districts, not for Congressional districts, and thus does not solve the problem of underrepresentation for New Yorkers in its entirety.</p> <p>This ad hoc approach in a few states is neither efficient nor universality implementable. If the Census Bureau would change its practice of counting incarcerated individuals at their home address rather than at the prison location, it would significantly alleviate the burden on state and local agencies and provide an efficient solution to greatly improve the fairness of apportionment and representation for millions of Americans.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause NY believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c113	<p>Common Cause Rhode Island 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). Common Cause Rhode Island urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census Day.</p> <p>Common Cause Rhode Island has been supportive of ending prison-based gerrymandering for five years, advocating for legislation before the Rhode Island General Assembly that would count prisoners in their home communities, consistent with Rhode Island law. Because Rhode Island has a single prison complex the problem of prison-based gerrymandering is particularly pernicious in our state.</p> <p>As you know, the American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the</p>

	<p>growth of the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 201 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Rhode Island, this resulted in a state legislative district in which 15% of the population is incarcerated, diluting the voting power of the state's other residents.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts. The Rhode Island Senate has passed legislation to do the same after the 2020 Census.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause Rhode Island believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c114	<p>On behalf of Connecticut Working Families, I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Working Families organizes for social, economic and racial justice. We have historically advocated for laws and policies that improve the quality of life of workers and their families. Our model is centered on building power within communities by engaging all people in the political process. We firmly believe in political participation, both at the polls and at the General Assembly.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p>

	<p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Connecticut, while Black individuals make up only 10% of the population, they make up 41% of the incarcerated population. Similarly, Latino individuals make up 13% of the total population but represent 29% of the incarcerated population. The practice of counting a prison cell as a residence has undoubtedly removed power from urban communities of color to mostly white suburban areas. In our state, the vast majority of the prison population was concentrated in 5 small towns, whose residents are mostly white. These towns have been able to count thousands of African Americans and Latinos as their own residents, even though these individuals were housed there only temporarily, and sentenced to those particular facilities for reasons that are frequently arbitrary.</p> <p>We believe that the practice of counting incarcerated people as residents of the area in which they are housed compromises the democratic process. Those areas that house prisons add to their population count and thus their political clout. Larger districts are drawn thereby increasing the power of not only those that are elected but those who live near these prisons. But incarcerated people see no direct benefit for the usurpation of their political power.</p> <p>This must change and it can start with the Census reforming its approach.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Working Families believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c115	<p>Please accept these comments in response to the Census Bureau’s notice regarding the 2020 Decennial Census Residence Rule and Residence Situations.¹ I write to respectfully ask that the Bureau count incarcerated people at their home address, rather than at the particular facility in which they happen to be confined on census day.</p> <p>I urge the Bureau to revise its methodology regarding the residency of incarcerated people for two reasons: one practical, and one historical. From a practical perspective, the Bureau’s decision to deem prison cells as residences had the effect—in the 2010 Census—of concentrating a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>I know this dynamic from personal experience: during the 2000 Census, I lived in Colorado’s Fifth Congressional District, which benefits substantially from the Bureau’s method of counting incarcerated populations. The Fifth District is comprised of many rural communities including Fremont and Chaffee Counties, which currently house roughly one-third of Colorado’s adult prison population.² An additional 47% of Colorado prisoners are held in facilities in the Fourth Congressional District, which covers the eastern plains.³ All of this despite the fact that half of the state’s adult inmates come from the urban counties of Denver, Jefferson, Adams, and Arapahoe⁴ (all of which are located outside of the prison-laden Fourth and Fifth Districts). I currently live in Oregon, where I am on the opposite side of this dynamic: I live in the Willamette Valley, which houses the majority of the state’s population (and, by extension, is home to the majority of people sent to prison). Yet over half of Oregon’s prisons are located in rural areas outside the Willamette Valley. This unfortunate dynamic is replicated in most states, and the problematic distortions that arise from the Bureau’s methodology are widely acknowledged.⁵ The Bureau’s current methodology (which the Bureau proposes to continue during the 2020 Decennial Census) exacerbates these problems and should be revised.</p> <p>There are also historical reasons in support of revising the Bureau’s methodology. The first Census-related policy in the country’s history consisted of the notorious three-fifths clause in article I, section 2 of the U.S. Constitution. The history behind this provision provides</p>

	<p>additional support for revising the Bureau’s current methodology. The original draft language of the Constitution called for Congressional apportionment according to principles of “wealth” and the number of inhabitants.⁶ This original language was designed to protect the power of agricultural, slave-holding states. The reference to wealth was removed after delegates argued it would lead to political manipulations that would protect entrenched interests at the expense of democratic representation.⁷ Arguing successfully in favor of removing the reference to wealth, delegate James Wilson of Pennsylvania noted that concerns about population growth and concomitant increases in political power had led to the separation of the colonies from Britain, and that similar problems would beset the new nation if it did not allocate power based on straightforward population counts: “if numbers be not a proper rule,” argued Wilson, “why is not some better rule pointed out.”⁸</p> <p>Although the Constitutional Convention removed the reference to wealth, the three-fifths provision remained in force until it was vitiated by the ratification of the Fourteenth Amendment in 1868. It is now time to erase all historical vestiges of inequality by ensuring fair and equitable enumeration of incarcerated people. The debates of the Constitutional Convention show that the framers desired political representation that was based on an accurate enumeration of population; the three-fifths provision was added as a political compromise to appease regional powers that ultimately lost this long-running argument in the Civil War. Today, mass incarceration has replaced slavery as a preeminent method of social, political, and economic control. Prisoners are increasingly commoditized and treated as economic units rather than people—a troubling dynamic that is exacerbated by the Bureau’s current methodology regarding correctional facilities.⁹ Incarcerated people are involuntarily confined and have no choice in selecting the location of their incarceration; further, unless someone happens to be incarcerated in their community of origin, they have no real economic, political, or emotional connection to the place of their confinement. Accordingly, the Bureau should count incarcerated people as members of the communities where they maintain ties: namely, the community in which they resided prior to incarceration.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. I believe that history and sound principles of public policy demand a population count that accurately represents communities; accordingly, I urge you to count incarcerated people as residents of their home address.</p> <p>¹ 80 Fed. Reg. 28950 (May 20, 2015) ² Colo. Dept. of Corr., Monthly Population and Capacity Report (Jun. 30, 2015). ³ <i>Id.</i> ⁴ Colo Dept. of Corr., <i>Statistical Report: FY 2013</i>, fig. 35. ⁵ See e.g., Marie Gottschalk, <i>Caught: The Prison State and the Lockdown of American Politics</i> (2015), 251-256; Peter Wagner & Daniel Kopf, <i>The Racial Geography of Mass Incarceration</i> (Jul. 2015), available at http://www.prisonpolicy.org/racialgeography/report.html. ⁶ See James Madison, <i>Notes of Debates in the Federal Convention of 1787</i>(1966), 285. ⁷ <i>Id.</i> at 285-287. ⁸ <i>Id.</i> at 287. ⁹ See e.g., Stephen Raher, <i>The Business of Punishing: Impediments to Accountability in the Private Corrections Industry</i>, 13 Richmond J. of L. and the Public Interest 209, 220-228 (2010).</p>
c116	<p>Common Cause Oregon 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). We ask that you count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Common Cause is a nonpartisan not-for-profit public interest group that works to safeguard and improve the democratic process. The organization has a long history of leadership, both nationally and here in Oregon, in support of fair and democratic redistricting. In Oregon, we just helped pass state legislation to bring more public participation and transparency to the state’s redistricting process. We’ve also been</p>

	<p>working to address the very problem you are considering now – the fact that counting prisoners where they are incarcerated serves to arbitrarily concentrate a large group of non-voters and thus skew the relative strength of voters.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>In Oregon, the Native American population is one population that has lost voting strength due to this distortion. With incarceration rates at more than twice the rate of White Oregonians, Native Americans make up 1% of the total Oregon population but 3% of the incarcerated population. For the most part, Oregon prisons are located outside of tribal areas so that that voting power of non-incarcerated Native Americans is diluted.</p> <p>This distorting effect plays out not only between communities with and without prisons, but also within the communities where prisons are located. For instance, in Pendleton Oregon, the prison population at the Eastern Oregon Correctional Institution makes up roughly 28% of a single Pendleton city council district. Every 3 residents of that district have the political power of 4 residents in other parts of the city.</p> <p>While Common Cause and others are trying to remedy this situation here in Oregon, it would be far better to resolve this through the Census Bureau’s own process. This is too important an issue – getting at the heart of the one-person-one-vote principal – to address piecemeal, state by state.</p> <p>We appreciate that you are looking into this matter and thank you for this opportunity to comment.</p>
c117	<p>Common Cause Indiana 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). Common Cause Indiana urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Ensuring that redistricting is impartial and that legislative lines are drawn in a fair and transparent way is part of our core mission to promote civic engagement and accountability in government. So is ensuring that every eligible American’s vote is counted fairly. Counting incarcerated persons as residents of the district in which they are temporarily held has the effect of unfairly enhancing the political power of those who live and vote in the prison district while unfairly diluting the votes of those in districts without prisons. Legislators with a prison in their district should not get a bonus for keeping the prison full. This dynamic hurts our democracy. And it hurts the communities from which these incarcerated persons hail.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the explosion in the prison population requires the Census to update its methodology again. A fair redistricting process not only involves complying with the federal law of “one person, one vote” but also with the federal Voting Rights Acts of 1965 which protects minority communities’ opportunities “to participate in the political process and to elect representatives of their choice.”</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p>

	<p>In Indiana, the city of Terre Haute (the county seat of Vigo County) exemplifies the problem. The 2000 Census counted 1,764 federal prisoners as if they were residents of the city, and when the city used that data for redistricting it drew a City Council where more than 20% of the “residents” were in fact prisoners in a federal prison complex located within town boundaries. This gave each group of 8 residents in that district the same clout as 10 residents in other city council districts. Because the prison nearly doubled in size over the ensuing decade, the distortion of voting power would have been particularly dramatic after the next redistricting. After the 2010 Census just two people who live near the prison could have had as much say in city affairs as three people in any other district. With such stark numbers, the flaw in the Census’ data became apparent and the City corrected the 2010 Census data and was able to then draw equal districts. (For more details, see the attached editorial from a local paper.)</p> <p>While Terre Haute has created an interim solution, the situation also illustrates the inefficiency of such a one by one approach. As I mentioned earlier, Terre Haute is the county seat of Vigo County, which had to tackle the same problem in its own redistricting even after Terre Haute solved theirs.</p> <p>As our cities and counties continue to individually tackle the inaccuracies in the Bureau’s data, four states (California, Delaware, Maryland, and New York) have taken a state-wide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>This ad hoc approach in a few states is neither efficient nor universally implementable. If the Census Bureau would change its practice of counting incarcerated individuals at their home address rather than at the prison location, it would significantly alleviate the burden on state and local agencies and provide an efficient solution to greatly improve the fairness of apportionment and representation for millions of Americans. As you well know, states across the country look to the Census Bureau as the nation’s foremost expert on national demographics and data, and more often than not count incarcerated persons the way the Bureau does. Once the Bureau leads the way with an update to a now outdated practice, states are sure to follow.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations; we appreciate the Bureau’s aim to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause Indiana believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their last-known home addresses.</p>
c118	<p>I represent Wisconsin State Assembly Legislative district _____ in _____, Wisconsin and submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests in part on an accurate count of the nation's population. Moreover, an accurate count of the nation's population has far reaching implications for how legislative and congressional districts are drawn and how important federal and state resources are allocated.</p> <p>The Census has evolved immensely since the first Census 225 years ago. Today, the growth in the prison population requires the Census continue that evolution. The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p>

	<p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Wisconsin, state legislative district 53, drawn after the 2000 Census, contained 5,131 prisoners from other parts of the state. This artificially decreased the population of the district by almost 10%. In effect, each group of 9 residents in district 53 had as much political power as 10 residents elsewhere in the state.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>However, going forward, this ad hoc approach is untenable. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state to have to adjust the Census' data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Democracy relies on a population count that accurately represents communities, therefore I urge you to count incarcerated people as residents of their home address.</p>
c119	<p>The Civil Rights Committee of the New York City Bar Association 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). We urge that you change the proposed rule from counting incarcerated people at the facility in which they are housed and use their last permanent residence or "usual residence" as defined by the prisoner instead.</p> <p>The New York City Bar Association is among the nation's oldest and largest bar association. Through its more than 160 committees, the Association promotes reforms in the law and seeks to improve the administration of justice. The Civil Rights Committee is directly concerned with how communities of color may be impacted by current Census Residence Rules and Residence Situations, particularly where population counts based on Census Residence Rules are employed by elected and appointed officials in redistricting and apportionment schemes. We believe that ensuring equal representation is imperative to the health of the nation because it allows for a just democratic system and avoids any racially discriminatory effects of prison gerrymandering.</p> <p>American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino¹ into just 5,393 Census blocks that are located far from the actual homes of incarcerated people.² In New York, in particular, after the 2000 Census, seven state senate districts met population requirements in state apportionment only because the Census counted detained people as if they were upstate residents.³ For example, each Senate district in New York should have had 306,072 residents after the 2000 Census. District 45, which claimed the populations of thirteen large prisons,</p>

however, had only 286,614 actual residents.⁴

Because of the distortions in political representation caused relying on the Census count of prisoners for the purposes of redistricting, New York State passed legislation to adjust the population data after the 2010 Census, to count incarcerated people at their home addresses in state legislative apportionment and redistricting.⁵ In *Little v. LATFOR*, the Supreme Court of the State of New York in Albany upheld this state law.⁶ The Court reasoned that the incarcerated people lacked any permanency in the locations of the facilities nor did they intend to remain there after their release.⁷ The court found that the Department of Corrections and Community Supervision decided when and where incarcerated people would be transferred, not the incarcerated people themselves.⁸ There were no records that indicated that the incarcerated people had ties to the communities where they were incarcerated, where they were “involuntarily and temporarily located.”⁹

Given the logic of the ruling in *Little*, it would be incongruous at best, and erroneous at worst, for the U.S. Census Bureau to count incarcerated people living in the communities where prison and criminal detention facilities are located, when incarcerated people are both *de jure* and *de facto* excluded from participating in the civic life of these communities. Detained people cannot purchase homes, become employed, or make a living while they are incarcerated.¹⁰

In 2010 there were 161 counties in 31 states where the incarcerated African-American population outnumbered the number of free African-Americans, and 20 counties in 10 states where the incarcerated Latino population outnumbered the number of free Latinos in those same counties.¹¹ In states as populous as New York, Pennsylvania, Illinois, Georgia, Florida and Texas, African-Americans and Latinos are more likely to be locked up in prisons in communities that remain largely white, non-diverse, and miles apart, both literally and figuratively, from communities in their home counties.¹²

African-Americans and Latinos in New York are overincarcerated. Even though African Americans comprise 16% and Latinos 18% of the general population in New York State, African-Americans comprise 53% and Latinos 22% of the incarcerated state population.¹³ New York is also more likely to incarcerate African-Americans and Latinos outside their communities of usual residence.¹⁴ In 2000, only 25% of New York’s state population lived upstate, yet 91% of detained people in state prisons were incarcerated there.¹⁵

When the Census Bureau counts detainees people where they are temporarily incarcerated, it appears to contradict the Bureau’s goal of accuracy in enumeration, because the Bureau is recognizing a temporary, involuntary stay as a “usual residence”.¹⁶ In New York, the median time served in a facility in 2007 was seven months, a statistic that further reflects that the place of incarceration is not the permanent residence of the incarcerated individual.¹⁷ Counting detained people in their prior residence serves not only the ideals of equity and equal protection in democracy, but is also rooted in common sense -- people who are detained are transferred often and incarcerated temporarily.

Currently, California, Delaware, Maryland, and New York are taking a state-wide approach to adjust the Census’ population totals to count incarcerated people at their actual homes, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts. The U.S. Census should follow suit by changing its policy to achieve a more accurate population count that serves the goals of fairness, equity, and equality in enumeration.

Finally, when state legislatures used this flawed data to draw or apportion legislative districts, they impute African-American and Latino political clout and political participation to districts where African-American and Latino communities in actuality have little to no civic voice.¹⁸ These outcomes do not appear to comport with the Supreme Court’s Fourteenth Amendment equal protection jurisprudence “one person one vote” standard.¹⁹

	<p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because The Civil Rights Committee of the New York City Bar Association supports a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p> <p>¹ As used in this Comment, the terms “Hispanic” or “Latino” are used interchangeably as defined by the U.S. Census Bureau and “refer to a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.” Karen R. Humes, Nicholas A. Jones & Roberto R. Ramirez, <i>Overview of Race and Hispanic Origin: 2010</i>, 2010 Census Briefs, 1, 2 (March, 2011), http://www.census.gov/prod/cen2010/briefs/c2010br02.pdf.</p> <p>² See <i>2010 Group Quarters Shapefile</i>, Prison Policy Initiative, www.prisonersofthecensus.org/data/2010/groupquartersshapefile.html (last visited Jul. 13, 2015).</p> <p>³ PETER WAGNER, ALEKS KAJSTURA, ELENA LAVARREDA, CHRISTIAN DE OCEJO & SHEILA VENNEL O'ROURKE, <i>50 STATE GUIDE: FIXING PRISON-BASED GERRYMANDERING AFTER THE 2010 CENSUS: NEW YORK</i>, PRISON POLICY INITIATIVE (MARCH 2010) (HEREINAFTER “<i>50 STATE GUIDE</i>”), HTTP://WWW.PRISONERSOFTHECENSUS.ORG/50STATES/NY.HTML.</p> <p>⁴ <i>Id.</i></p> <p>⁵ Wagner et al., <i>50 State Guide</i>, <i>supra</i> note 3.</p> <p>⁶ <i>Little v. LATFOR</i>, No. 2310/2011 at 7 (N.Y. Sup. Ct., Albany Cnty. Dec. 1, 2011).</p> <p>⁷ <i>Id.</i></p> <p>⁸ <i>Id.</i></p> <p>⁹ <i>Id.</i></p> <p>¹⁰ Peter Wagner, Eric Lotke & Andrew Beveridge, <i>Why the Census Bureau can and must start collecting the home addresses of incarcerated people</i>, Prison Policy Initiative Report submitted to the U.S. Census Bureau on February 10, 2006, in advance of the Bureau's report to the Appropriations Committee on using incarcerated people's homes of record in the Census, http://www.prisonpolicy.org/homeaddresses/report.html. (February 2006) (hereinafter “<i>Why the Census</i>”).</p> <p>¹³ See Peter Wagner & Daniel Kopf, <i>The racial geography of mass incarceration</i>, Prison Policy Initiative (July 2015), http://www.prisonpolicy.org/racialgeography/report.html.</p> <p>¹⁴ <i>Id.</i></p> <p>¹³ <i>50 State Incarceration Profiles: New York</i>, Prison Policy Initiative, http://www.prisonpolicy.org/profiles/NY.html (last visited Jul. 13, 2015).</p> <p>¹⁴ Wagner & Kopf, <i>The racial geography of mass incarceration</i>, <i>supra</i> note 13.</p> <p>¹⁵ Rose Heyer & Peter Wagner, <i>Too big to ignore: How counting people in prisons distorted Census 2000</i>, Prison Policy Initiative (April 2004), http://www.prisonersofthecensus.org/toobig/size.html.</p> <p>¹⁶ Wagner et al., <i>Why the Census</i>, <i>supra</i> note 12.</p> <p>¹⁷ New York State Department of Correctional Services, HUB SYSTEM: Profile of Inmate Population Under Custody on January 1, 2008, at 11, available at http://www.doccs.ny.gov/Research/Reports/2008/Hub_Report_2008.pdf.</p> <p>¹⁸ Wagner & Kopf, <i>The racial geography of mass incarceration</i>, <i>supra</i> note 13.</p> <p>¹⁹ See, e.g., <i>Gray v. Sanders</i>, 372 U.S. 368, 379 (1963) (“How then can one person be given twice or ten times the voting power of another person in a state-wide election merely because he lives in a rural area or because he lives in the smallest rural county? Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote [. . .]. This is required by the Equal Protection Clause of the Fourteenth Amendment”); <i>Reynolds v. Sims</i>, 377 U.S. 533, 566 (1964).</p>
c120	<p>We at Common Cause appreciate the Census Bureau's invitation to submit these comments in response to its federal register notice regarding Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015). To ensure that each district in this country fairly captures its residential population, for purposes of voting and fair representation, we urge the Bureau to count incarcerated people at their home addresses, rather than at the prison facilities in which they are temporarily located. Making this change to the residence rules is fundamental to ensuring that votes from prison districts do not hold more power than those from districts without prisons.</p>

Founded in 1970, Common Cause is a national nonpartisan advocacy organization dedicated to empowering citizens in making their voices heard in the political process and holding government accountable to the people. Ensuring that every eligible citizen has an opportunity to cast a vote, free from discrimination and obstacles, is fundamental to a democracy that aims for and professes representation of all. So too is ensuring that each vote cast is weighed fairly, in keeping with the principle of "one-person, one-vote" announced by the Supreme Court in *Reynolds v. Sims*. To protect these principles, Common Cause, through its national office and 35 state organizations, advances a number of elections reforms throughout the country, including the elimination of prison-based gerrymandering.

The practice of prison-based gerrymandering is at odds with our principles of democracy. Prisons are typically located in rural - often, white-majority districts¹ - and in many instances the prisoners make up a large majority of the district's population. States engaging in prison-based gerrymandering - by adopting the Bureau's residence rules and allocating incarcerated persons to prison districts - necessarily inflate the votes of their rural, white voters at the expense of those cast by people of color living in non-prison, often urban, districts. The number of people affected by the practice, moreover, is not insignificant. In 2010, non-Hispanic Black men were incarcerated at a rate seven times higher than non-Hispanic White men²; it is these typically urban, minority-majority communities, to which incarcerated persons most often return upon completion of sentences, whose votes are made - by the practice of prison-based gerrymandering - to matter less than those of mostly white, rural voters.

When the Bureau first began counting Americans in 1790, the issue of where to count prisoners did not hold the same significance, or result in the same disparities, as it does today. As is well known, American demographics and living situations have changed dramatically over the past two centuries, and the Census has appropriately evolved in response to many such changes in order to provide an accurate picture of the nation. The prison population's explosion, particularly over the past two decades³, requires the Census Bureau to again update its methodology in order to create, as the Bureau strives for, a "fair and equitable apportionment" that reflects "changing living situation resulting from societal change."⁴

While waiting for the Bureau to make this needed change, a number of states have begun to take action. New York State, California, Delaware, and Maryland have all passed legislation to eliminate the state-wide practice of prison-based gerrymandering, and over 200 counties and municipalities individually adjust population data to avoid the practice when drawing their local government districts. A number of other states - including Oregon, Illinois, Rhode Island, and New Jersey - have also begun considering legislation that would ban the outdated practice of counting incarcerated persons in the prisons where they temporarily remain.

As evident by these state and local actions, states are not legally required to adopt the Census Bureau's definition of "residence" when allocating individuals for redistricting purposes. However, the reality is that they almost all do. After all, the Bureau provides the "leading source of quality data about the nation's people ...",⁵ and is best suited to lead the way - and thus guide remaining states - on this important issue. An ad hoc approach on how to apportion incarcerated persons is neither efficient nor fair; votes across districts, and across the country, should hold equal weight.⁶ States ascribing to the same definition of "residency" for incarcerated persons makes good sense, particularly since all incarcerated persons share the same characteristic of temporary removal from both greater society and their own homes. Indeed, they don't partake of the prison district's roads, parks, or schools; they are confined within that district only temporarily; and, in the vast majority of instances, they return to the districts in which they lived before incarceration. Changing the residence rule to reflect this reality would provide long-awaited guidance to states.

Thank you for this opportunity to comment on your Residence Rule and Residence Situations. We appreciate that the Bureau strives to

	<p>count all individuals in the right place in keeping with changes in society and population realities. Because Common Cause believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p> <p>¹ For example, 98% of New York's prison cells are located in state senate districts that are disproportionately White; in Connecticut, 75% of the state's prisons are in state house districts that are disproportionately White. See Peter Wagner, 98% of New York's Prison Cells Are in Disproportionately White Senate Districts, Prison Pol'y Initiative (Nov. 17, 2010), http://www.prisonersofthecensus.org/new/2005/01/17/white-senate-districts/; see also Ending Prison-Based Gerrymandering Would Aid in African-American and Latino Vote in Connecticut, Prison Pol'y Initiative (Nov. 17, 2010), http://www.prisonersofthecensus.org/factsheets/ct/CT_AfricanAmericans_Latinos.pdf</p> <p>² U.S. Dept. of Justice, "Prisoners in 2010," avail. at http://www.bjs.gov/content/pub/pdf/p10.pdf</p> <p>³ NAACP, Criminal Justice Factsheet, available at www.naacp.org/pages/criminal-justice-fact-sheet</p> <p>⁴ 2020 Decennial Census Residence Rule and Residence Situations, 80 Fed. Reg. 28950-28952 (May 20, 2015)</p> <p>⁵ See Census Bureau website at http://www.census.gov/about.html, last visited on July 9, 2015.</p> <p>⁶ Moreover, Massachusetts cannot easily make such changes to the ways in which it allocates prisoners for redistricting purposes until the Census Bureau issues a change in its residence rules, due to a state constitutional requirement that it follow the Bureau's rules. The Massachusetts legislature sent the Bureau a resolution in 2014 urging it to tabulate incarcerated persons at their home addresses. See The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p>
c121	<p>I am a Professor of Law at _____, _____.¹ I teach constitutional law and the law of democracy — which means that I have the privilege of studying, analyzing, and teaching the Constitution from start to finish. From the first words of the Preamble to the final words of the 27th Amendment, our founding document is concerned with how We the People are represented: what we authorize our representatives to do, what we do not permit our representatives to do, and how we structure authority to allow our representatives to check and balance each other in the interest of ensuring that the republic serves us all.</p> <p>My examination of the Constitution and the law of democracy is not merely theoretical. I have had the privilege to practice in this arena as well, including work with institutions and organizations attempting to foster meaningful representation of the American public. My work has included the publication of studies and reports; the provision of testimony and informal assistance to federal and state legislative and administrative bodies and officials with responsibility for apportionment, districting, and the electoral process; and, when necessary, participation in litigation to compel jurisdictions to comply with their obligations under state and federal law.</p> <p>Much of my work, including my research and scholarship, confronts the structure of representation and the factual predicates of that structure. I have analyzed, in detail, the effect of different voting systems and districting plans that purport to further meaningful representation, the manner in which the Census count impacts that representation, and various jurisdictions' efforts to modify and adapt the Census default. I believe that it is no coincidence that an enumeration of the People is the very first substantive duty that our founding charter gives to the newly established collective government, for it is this enumeration that drives the representation at the core of our constitutional order.</p> <p>It is therefore a privilege to respond to your call for comment on the existing Census Residence Rule and Residence Situations. I am heartened that the Census Bureau is evaluating its rules governing where individuals should be counted, in order to determine whether they best effectuate the constitutional mandate or whether they might be improved for 2020.</p> <p>For most individuals, the Census Bureau's current default for determining residence has a sound representational logic. The vast majority of persons counted by the Census will be counted at a place they consider "home": the address that they would also consider their permanent legal, electoral, and social residence. For these people, the residence rules generate no meaningful controversy.</p>

Some people are away from “home” when the Census comes calling. Many (but not all)² of these individuals are counted at the place considered their “usual residence,” where they live and sleep most of the time. For most such individuals whose “usual residence” is not “home,” the current Census default is also entirely sensible. These individuals may be people who have been called away from home for military or other public service, job relocation, or education, and they are generally intertwined with the communities where they are laying their heads most often. They eat locally, shop locally, seek entertainment locally, and walk, bike, bus, and drive locally. While they are away from home, they use local services, utilities, and public assistance just as their new neighbors do. They interact regularly with the other members of the local community, and in so doing, they are subject to the same rules and regulations and ordinances that govern others in the community, and they enjoy many of the same benefits. All of the above interaction with the local community makes it logical for the Census to tally most of these sojourners in tandem with the local communities in which they are usually physically present, for purposes of representation of their interests by local, state, and federal government.

There is one sizable group of people, however, for whom the above description is not at all accurate. The 2.2 million individuals who are incarcerated in the United States³ were counted by the Census Bureau in 2010 at the locations where they had involuntarily been placed. The vast majority of them showed no intent at all to change their legal or electoral residence. (Indeed, consistent with the common principle that a temporary absence does not amount to a change in legal or electoral residence, 28 states have explicitly provided that incarceration does not itself provoke such a change.⁴ And in most if not all of the other states, the implication of their more general rule would lead to the same conclusion.)

Individuals who are transferred to a correctional facility often have little in common with more usual “usual residents” of the area. Incarcerated individuals are often from a demographic and socioeconomic background quite distinct from those who live in the neighborhood. And in many areas, the racial or ethnic disparity is quite stark. For example, a recent study found that there are now more than 450 counties where the proportion of African-Americans in the incarcerated population is larger than the proportion of African-Americans in the surrounding county — and more than 200 counties where the proportion of African-Americans in the incarcerated population is more than ten times larger than the proportion of African-Americans in the surrounding county.⁵ As another researcher concluded, “In 173 counties nationwide, more than 50% of the purported African-American ‘residents’ are behind bars.”⁶

Moreover, unlike all of the other sojourners above who are away from “home” on Census Day, incarcerated individuals do not meaningfully interact — indeed, are not permitted to meaningfully interact — with the communities to which the Census Bureau assigned them in 2010. Individuals incarcerated in Village Township do not eat at the restaurants of Village Township, shop in Village Township stores, attend Village Township movie theaters, or use Village Township roads, sidewalks, or public transportation. While incarcerated, they are not affected by Village Township county or municipal codes and cannot attend Village Township public meetings. They may be confined in a location physically adjacent to Village Township residents, but most Village Township residents will not likely consider them “neighbors.”

Because of both the lack of similarity and the lack of interaction, it would be quite surprising to find that incarcerated individuals feel represented — either directly or indirectly — by the officials representing the physical locations to which they were assigned by the Census Bureau in 2010. At least some officials representing communities with sizable correctional facilities keenly understand the disconnect. When an Iowa city councilman was asked whether he considered the incarcerated individuals comprising 96% of the population in his district to be his constituents, he said, simply, “not really.”⁷ And in 2002, a New York state legislator representing a district housing thousands of incarcerated individuals said that given a choice between the district’s cows and the district’s prisoners, he would “take his chances” with the cows, because “[t]hey would be more likely to vote for me.”⁸

The practice of tallying incarcerated individuals at the facilities where they are confined is wrong. It creates both informational and

democratic harm, and should be corrected in the 2020 Census.

The practice creates informational harm by painting a misleading picture of community demographics. A researcher or policymaker or planner seeking to better understand an area will look to the valuable information compiled by the Census for a rich portrait of the local residents. For those areas that include a correctional facility, the snapshot will include those who are incarcerated, when it is likely that neither the people inside nor those outside the facility regard the prison population as a true part of the community.

The practice creates democratic harm as well, in several ways. The Constitution requires that local, state, and federal districts be drawn such that district populations are approximately equal.⁹ When the population tally counts incarcerated individuals where they are confined, districts are built on the backs of “ghost constituents,” with no meaningful ability to influence their purported representatives, directly or indirectly.¹⁰ These individuals and the communities where they are truly from, accordingly, lose representation; in certain circumstances, the dilution may give rise to a claim under the Voting Rights Act.¹¹ As the National Academy of Sciences recognized, “The prison population includes disproportionate numbers of racial minorities and persons from large urban areas; that this population is counted in the largely rural areas where prisons tend to be located, and that they are included in redistricting calculations despite being barred from voting in most cases, raises legitimate concerns of equity and fairness in the census.”¹²

On the other side of the coin, the non-incarcerated residents of districts with prisons garner unduly disproportionate influence. For example, in Lake County, Tennessee, after the most recent census, 87% of the population of one County Commissioner district was allotted to a local correctional facility. As a result, the 344 non-incarcerated residents of the district receive the same voice on county policy as the approximately 2500 or 2600 individuals in each of Lake’s two other districts.¹³

Even when correctional facilities do not distort representation, they may well distort the candidate pool. Many jurisdictions allow voters throughout the jurisdiction to vote on candidates, but require the candidates to be from geographic districts of approximately equal size. If such districts are drawn to include large correctional facilities, there may be districts with no individuals eligible to run as candidates.¹⁴

Sometimes, these factors align. In Anamosa, Iowa, after the 2000 Census, 1300 of the 1358 individuals allotted to City Council ward 2 were incarcerated there, giving the 58 other residents of that ward strikingly disproportionate political power.¹⁵ And after subtracting individuals ineligible to run for city council, that also left the ward strikingly few potential officeholders. In the 2005 municipal election, ward 2 had no candidates on the ballot, and only three voters, total.¹⁶ The winner, selected with two write-in votes, did not even vote for himself.¹⁷

Though Anamosa’s situation is an extreme, the practice of counting incarcerated individuals where they are confined does democratic damage everywhere. This explains why more than 200 known counties, cities, and school boards in at least 30 states have attempted to correct or otherwise compensate for the 2010 Census tally, usually adjusting local population totals to account for populations in correctional facilities when drawing their own districts.¹⁸ At least six states require certain local governments to adjust existing population tallies in order to more equitably account for incarcerated individuals when drawing local districts;¹⁹ additional states expressly permit or encourage the practice.²⁰ And four states, representing 65 million people, have already decided that in 2020, they will endeavor to correct the Census Bureau’s count of incarcerated populations in drawing state and federal legislative districts, if the Census Bureau does not correct its own misallocation.²¹ Legislation has been proposed in others.

The Census Bureau’s practice of counting incarcerated individuals where they are confined was based on principles developed well before the Supreme Court cases establishing the equal representation principle, and well before the comparatively recent explosion in the incarcerated population.²² States and localities are attempting to compensate for the inadequate allocation as best they can. It is time for

the Census Bureau to assist them.

It would be in keeping with the bulk of the Census Bureau’s representational logic to tally incarcerated individuals in the communities to which they are most closely connected on Census Day. That location is not where they are involuntarily confined, but rather where their relatives and friends and support systems are often located, where their children may live, where they are most likely to return when they are released from incarceration,²³ and where their inclusion will illuminate and not distort the snapshot of the true local community. While in individual cases these indicators may point to different addresses, the best available proxy — and a far superior proxy than the deeply flawed alternative of the carceral facility — is the individual’s last known residence before incarceration. This is the most recent place that an incarcerated individual is from, and the last place that they chose to make their “usual” residence. A decision to tally incarcerated individuals at their last known address would come far closer to aligning such individuals with their legal and social residence than the Census Bureau’s past practice. And it would further the opportunity for these individuals to be adequately represented, better fulfilling the rationale for the Census’s core function.

Counting incarcerated individuals at their last known residence before incarceration, rather than where they are involuntarily confined, is a feasible solution as well as a just one. There are several options for collecting this information. Incarcerated individuals may be surveyed by interview and questionnaire, just as the vast majority of other individuals are surveyed.²⁴ In the alternative, or to supplement coverage gaps, the Census Bureau could collect most last prior addresses from the existing administrative records of correctional, parole and probation, or judicial offices.²⁵

I encourage the Census Bureau to consider revising its Residence Rule and Residence Situations, to tally incarcerated individuals at their last known address before incarceration. Correcting the outmoded alternative practice in place during the last Census is a pragmatic means to align the residence rules in a way that furthers just representation of individuals in the communities to which they are truly attached on Census Day.

I thank the Census Bureau for this opportunity to comment. If you have any further questions, please feel free to contact me at your convenience. I can best be reached by email, at _____, or by phone at _____.

¹ My comments represent my personal views and are not necessarily those of _____ or any other organization with which I am now or have previously been affiliated.

² For example, children at a boarding school have been counted at the home of their parents. 2020 Decennial Census Residence Rule and Residence Situations, 80 Fed. Reg. 28,950, 28,951 (May 20, 2015).

³ Lauren E. Glaze & Danielle Kaebler, Bureau of Justice Statistics, U.S. Dep’t of Justice, *Correctional Populations in the United States*, 2013 (Dec. 2014), <http://www.bjs.gov/content/pub/pdf/cpus13.pdf>.

⁴ See ALASKA STAT. § 15.05.020; ARIZ. CONST. art. VII, § 3; CAL. CONST. art. II, § 4; COLO. CONST. art. VII, § 4; CONN. GEN. STAT. ANN. §§ 9-14, 9-40a(a); HAW. REV. STAT. § 11-13(5); IDAHO CODE ANN. § 34-405; KAN. STAT. ANN. § 11-205(f); ME. REV. STAT. ANN. tit. 21-A, § 112(14); MICH. COMP. L. § 168.11(2); MINN. CONST. art. VII, § 2; MISS. CODE ANN. § 47-1-63; MO. CONST. art. VIII, § 6; MONT. CODE ANN. § 13-1-112(2); N.C. GEN. STAT. ANN. § 153A-257(a)(2); NEV. CONST. art. II, § 2; N.H. REV. STAT. § 654:2; N.M. STAT. ANN. § 1-1-7(D); N.Y. CONST. art. II, § 4; OR. CONST. art. II, § 4; 25 PA. STAT. § 2813; R.I. GEN. LAWS § 17-1-3.1(a)(2); TENN. CODE ANN. § 2-2- 122(7); TEX. ELEC. CODE ANN. § 1.105(e); UTAH CODE ANN. § 20A-2- 105(3)(c)(iii); VT. STAT. ANN. tit. 17, § 2122(a); WASH. CONST. art. VI, § 4; WYO. STAT. ANN. § 22-1-102(a)(xxx)(B)(III). See generally Dale E. Ho, *Captive Constituents: Prison-Based Gerrymandering and the Current Redistricting Cycle*, 22 STAN. L. & POL’Y REV. 355, 366-67 (2011) (reviewing residency standards).

⁵ Peter Wagner & Daniel Kopf, *The Racial Geography of Mass Incarceration*, July 2015, <http://www.prisonpolicy.org/racialgeography/report.html>. The same study found more than 220 counties where the proportion of Latinos in the incarcerated population is larger than the proportion of Latinos in the surrounding county — and more than 40 counties where the proportion of Latinos in the incarcerated population is more than ten times larger than the proportion of Latinos in the surrounding county. *Id.*

⁶ Ho, *supra* note 4, at 361. This report considered Census data from 2000, but the number has not changed considerably in ten years. In 2010, there were 161 counties where more than half of the African-American individuals tallied by the Census were incarcerated. *See* Wagner & Kopf, *supra* note 5.

⁷ Sam Roberts, *Census Bureau's Counting of Prisoners Benefits Some Rural Voting Districts*, N.Y. TIMES, Oct. 24, 2008, <http://www.nytimes.com/2008/10/24/us/politics/24census.html>.

⁸ Jonathan Tilove, *Minority Prison Inmates Skew Local Populations as States Redistrict*, Newhouse News Service, 2002, <https://web.archive.org/web/20021009134128/http://www.newhousenews.com/archive/storyla031202.html>.

⁹ *Tennant v. Jefferson County Comm'n*, 133 S. Ct. 3 (2012); *Reynolds v. Sims*, 377 U.S. 533 (1964); *Avery v. Midland County, Tex.*, 390 U.S. 474 (1968).

¹⁰ All states other than Maine and Vermont bar individuals who have been convicted of a felony from voting while incarcerated. The Sentencing Project, Fact Sheet: Felony Disenfranchisement Laws, April 2014, http://sentencingproject.org/doc/publications/fd_Felony%20Disenfranchisement%20Laws%20in%20the%20US.pdf. And in most cases, family members or loved ones who are eligible to vote and might advocate for the interests of these individuals live far away, in other legislative districts.

¹¹ *Cf.* *Hayden v. Pataki*, 449 F.3d 305, 328-29 (2d Cir. 2006) (en banc) (remanding to determine whether the issue was properly raised by the plaintiff); *id.* at 337 (Straub, J., concurring in part and concurring in the judgment). In the trial court, plaintiffs clarified that they had not stated such a claim, and the case was dismissed. Memorandum and Order, *Hayden v. Pataki*, No. 00-8586, 2006 WL 2242760 (S.D.N.Y. Aug. 4, 2006).

¹² NAT'L RESEARCH COUNCIL OF THE NAT'L ACADEMIES, *ONCE, ONLY ONCE, AND IN THE RIGHT PLACE: RESIDENCE RULES IN THE DECENNIAL CENSUS* 8 (Daniel L. Cork & Paul R. Voss, eds. 2006).

¹³ *See* Lake County 2014 County Commission Districts and Current Voting Precincts, <http://comptroller.tn.gov/repository/LG/DistrictMaps/Lake/County%20Commission/2014%20Countywide.pdf>; U.S. Census Bureau, 2010 Census Summary File 1, tbl. P1 (Total Population), http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_SF1_P1&prodType=table; *id.* PCT20 (Group Quarters Population by Group Quarters Type), http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_SF1_PCT20&prodType=table; Tenn. Dep't of Correction Planning & Research Section, Tennessee Bed Space and Operating Capacities Report at 1, July 2010, <http://www.tn.gov/assets/entities/correction/attachments/BedJuly2010.pdf>. The county's districts were similarly skewed after the last Census. *See* Peter Wagner & JooHye DellaRocco, *Phantom Constituents in Tennessee's Boards of County Commissioners*, Prison Policy Initiative, Feb. 21, 2008, <http://www.prisonersofthecensus.org/tncounties/report.html>.

¹⁴ *See, e.g.,* Tilove, *supra* note 8 ("In eastern Colorado's Crowley County, commissioners are elected by the countywide electorate but must run from and live in a particular district. Counting inmates there, according to commissioner T.E. 'Tobe' Allumbaugh, would have created a 'prison' district without possibility of representation. 'It's a little bit of a joke,' Allumbaugh said.").

¹⁵ *See* Roberts, *supra* note 7.

¹⁶ Jones County Auditor, *Official Canvass of the Votes Cast at the November 8, 2005 Anamosa City Election Held in Jones County, Iowa*, at 1, <http://www.jonescountyiowa.org/Documents/Aud.CanvassCity05.pdf>; Maureen Turner, *The Prison Town Advantage*, VALLEY ADVOCATE, Oct. 8, 2009, <http://www.valleyadvocate.com/2009/10/08/the-prison-town-advantage/>.

¹⁷ *See* Turner, *supra* note 16.

¹⁸ There are is no official compilation of local governments that have taken such measures. The most comprehensive such list appears to be kept by the Prison Policy Initiative, at <http://www.prisonersofthecensus.org/local/> (last updated July 3, 2015).

¹⁹ COLO. REV. STAT. §§ 22-31-109(2)(c), 30-10-306.7(5)(a) (Colorado); MD. CODE ANN., LOCAL GOV'T § 1-1307 (Maryland); MICH. COMP. L. §§ 46.404(g), 117.27a(5) (Michigan); Op. No. 2002-0060, 2002 WL 321998 (Miss. A.G. 2002) (Mississippi); N.J. STAT. § 18A:13-8 (New Jersey); N.Y. MUN. HOME RULE LAW § 10(1)(ii)(a)(13)(c) (New York); *cf.* IND. CODE § 3-10-6-1(b) (providing specific rules for elections in cities of a certain population size, excluding incarcerated individuals).

²⁰ VA. CODE ANN. § 24.2-304.1(C).

²¹ *See* CAL. ELEC. CODE § 21003; 29 DEL. CODE § 804A; MD. CODE ANN., ELECTION LAW § 8-704; MD. CODE ANN., STATE GOV'T, § 2-2A-01; N.Y. LEGIS. LAW § 83-m(13)(b).

²² *See* NAT'L RESEARCH COUNCIL OF THE NAT'L ACADEMIES, *supra* note 12, at 28-30, 38, 86-87.

²³ *See* Kirsten D. Livingston & Christopher Muller, Brennan Ctr. for Justice at NYU School of Law, "Home" in 2010: A Report on the Feasibility of Enumerating People in Prison at Their Home Addresses in the Next Census 9 (Feb. 15, 2006), <https://www.brennancenter.org/publication/home-2010>.

	<p>²⁴ See, e.g., Michelle Inderbitzin & Anna Chan, <i>Ethnographic Study of the Group Quarters Population in the 2010 Census: Prisons for Adults and Juvenile Correctional Facilities</i> 25-26, Mar. 7, 2013, https://www.census.gov/srd/papers/pdf/ssm2013-08.pdf (describing a visit to a maximum security prison to collect Census data, and finding the surveyed random sample of the incarcerated population to be “[o]n the whole, . . . extremely polite and cooperative”); <i>Even Prisoners Counted in Census</i>, DESERET NEWS, May 22, 2000, http://www.deseretnews.com/article/761559/Even-prisoners-counted-in-census.html?pg=all; Annette Kondo, <i>At Prison, Census Reactions of All Stripes</i>, L.A. TIMES, Apr. 20, 2000, http://articles.latimes.com/2000/apr/20/local/me-21623; Tina A. Brown, <i>Asking ‘Stupid’ Questions</i>, HARTFORD COURANT, Apr. 4, 2000, http://articles.courant.com/2000-04-04/news/0004040079_1_seven-inmates-prison-population-census-bureau (“In Connecticut, when the correction department locked down all of its prisons Monday morning, it expected to have counted 17,511 inmates within a four-hour period.”).</p> <p>²⁵ See Livingston & Muller, <i>supra</i> note 23, at 11-12.</p>
c122	<p>I am writing in response to your May 20 Federal Register notice regarding the Residence Rule and Residence Situations.</p> <p>As a native Texan, I am unnerved by the Census Bureau’s policy to count incarcerated people as residents of prison facilities, not of their hometowns. That practice, especially when the data are intended for redistricting, clearly runs counter to the Texas Election Code, which specifies:</p> <p style="padding-left: 40px;">In this code, “residence” means domicile, that is, one’s home and fixed place of habitation to which one intends to return after any temporary absence... A person who is an inmate in a penal institution... does not, while an inmate, acquire residence at the place where the institution is located.¹</p> <p>The Census Bureau’s Residence Rule ignores Texas law, so community leaders have had to take this problem into their own hands. In an investigation of jurisdictions with large prison populations, researchers found that almost all (86%) Texas communities rejected prison gerrymandering by excluding prisoners from population counts, even if the vote dilution impacts of including prisoners were miniscule.² In some parts of the state, the effects of using uncorrected Census Bureau data would have been far from innocuous. For example, in some jurisdictions – including districts in Childress, Walker, Anderson, Karnes, and Mitchell Counties – prisoners would have made up at least 50% of the population if unaltered Census Bureau data were used, giving voters living near prison facilities undue political influence.³</p> <p>Fortunately, local government leaders in Texas have overwhelmingly rejected the Census Bureau’s interpretation of the Residence Rule in order to avoid prison gerrymandering and uphold the “one person, one vote” principle. After Census 2010, Hale County Judge Bill Coleman told the <i>Austin American-Statesman</i> that excluding prisoners from precinct populations for redistricting purposes was simply common sense:</p> <p style="padding-left: 40px;">If your altruistic goal is to try to make each precinct have an equal number of at least potential voters, and a significant chunk of you population is not allowed to vote, aren’t you sort of undermining the whole purpose of this thing?⁴</p> <p>Still, Texas officials have not made the commitment to end prison gerrymandering at the state level as other states, such as California, Delaware, Maryland, and New York, have done. Despite multiple efforts by government leaders and grassroots organizations, Texas continues to rely on your data, which count incarcerated people as residents of prisons. As a result, African Americans and Latinos who disproportionately fill Texas correctional facilities are being used to pad white votes in prison-hosting state districts while also diluting minority votes elsewhere. For example, after Census 2000, 45,000 Texas prisoners were moved from competitive, marginal districts to more conservative districts as a political strategy. Such an egregious example of prison gerrymandering is both troubling and, more importantly, avoidable.</p>

	<p>Today, Texas stands among the nation’s leaders in many measures of criminal justice severity. My state incarcerates its residents at a higher rate than entire countries like Cuba, Rwanda, and El Salvador.⁵ Where prisoners are counted has a profound impact on the integrity of American democracy. I therefore urge you to count incarcerated people at their home addresses, rather than at the particular facilities where they happen to be located on Census Day.</p> <p>¹ Texas State Legislature, <i>Texas Election Code</i>, Sec. 1.015(e). Available at: http://www.statutes.legis.state.tx.us/Docs/SDocs/ELECTIONCODE.pdf.</p> <p>² Peter Wagner, “Avoiding Prison Gerrymandering is Often a Matter of Common Sense: Texas and Louisiana Research Update,” <i>Prison Policy Initiative</i>, 2013. Available at: http://www.prisonersofthecensus.org/news/2013/12/06/scatterplot/.</p> <p>³ Elena Laverreda, “Not Everything is Bigger in Texas: How Rural Texas Counties with Large Prisons Maintain Fairness in Democracy,” <i>Prison Policy Initiative</i>, 2010. Available at: http://www.prisonersofthecensus.org/news/2010/06/02/notbigger/.</p> <p>⁴ Jonathan Tilove, “Prisoners Can’t Vote, But They Can Subtly Shift Political Power,” <i>Austin American-Statesman</i>, November 30, 2013.</p> <p>⁵ Peter Wagner, Leah Sakala, and Josh Begley, “States of Incarceration: The Global Context,” <i>Prison Policy Initiative</i>, 2014. Available at: http://www.prisonpolicy.org/global/.</p>
c123	<p>I am writing in response to your May 20 Federal Register notice regarding the Residence Rule and Residence Situations.</p> <p>As a social justice and voting rights activist from West Virginia, I am horrified by the racial injustice that is caused by counting incarcerated people as residents of prisons instead of their hometowns. According to the Census, Blacks in West Virginia make up only 3% of the total population, but they represent 28% of the incarcerated population. Like most states, West Virginia has a significant racial disparity in its incarceration rates, but there is another problem: the state host many federal prisons that are disproportionately filled with incarcerated African-Americans from other places, in particular, the District of Columbia.</p> <p>The Residence Rule harms the democratic process because incarcerated people in West Virginia (and 47 other states) cannot vote. As a result, the Census Bureau’s practice of counting incarcerated people in prisons, instead of their hometowns, essentially keeps the Three-Fifths Compromise alive. Before the Civil War, people who lived among slaves had greater relative voting power than others because Black slaves were used to determine political representation but were barred from the polls. Today, people who live near prisons experience the exact same increase in voting power to the detriment of other West Virginian citizens as well as the citizens of the incarcerated individuals hometown.</p> <p>West Virginia was founded on the principles of freedom and equality – the state formed when its citizens refused to join Virginia in its secession from the Union and its fight to maintain slavery. But even in 2015, West Virginians are not free and equal because incarcerated people of color are included in population counts but excluded on Election Day.</p> <p>The Residence Rule violates the “one person, one vote” principle by padding white votes and diluting Black votes, contrary to the Voters Rights Act of 1964. I urge you to fix this violation of democracy by counting all incarcerated people at their homes, rather than at the prison facilities where they happen to be on Census Day.</p>
c124	<p>We write in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations.</p> <p>As editors of premier academic and legal journals, and leaders of premier law school student associations, we take an interest in the accuracy of the methodology that the U.S. Census Bureau uses to count the U.S. population. Our academic and legal journal authors often rely on population data provided by the U.S. Census Bureau in their articles. In turn, members of the legal profession depend on our articles to support advocacy efforts, lawmaking, rulemaking, legal strategy, and jurisprudence.</p> <p>It has come to our attention that the US Census Bureau’s 2010 Residence Rule and Residence Situations skews the accuracy of the U.S. Census data by counting incarcerated people at the facilities that they are confined in, rather than at the their home addresses, on</p>

	<p>Census day. By designating a prison cell as a residence in the 2010 Census, the Census Bureau located a population that is disproportionately male, urban, and Black or Latino into Census blocks far from their homes. This inflates the apparent size of the towns of people who live near prisons. When this data is used in submissions to our academic and legal journal publications, the reliability of important scholarship published by the law schools with which we are associated is risked.</p> <p>More worrisome, when used for redistricting, the 2010 U.S. Census deprives political power from those communities where a disproportionate amount of people are arrested and imprisoned away from home. Members of our organizations identify with those communities.</p> <p>Because we believe in a population count that accurately represents our nation, we urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Thank you for your consideration.</p>
c125	<p>The undersigned national civil rights, voting rights, labor and criminal justice organizations submit 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. When the "usual residence" rule was first implemented in the first Census, incarcerated persons comprised a vanishingly tiny portion of the country and had no significant impact on representational fairness. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the nation's incarcerated population has more than quadrupled to over two million people. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Illinois, for example, 60% of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99% of them as if they resided outside Cook County.</p> <p>When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. In New York after the 2000 Census, for example, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents. For this reason, New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes.</p> <p>New York State is not the only jurisdiction taking action to correct the inaccuracies resulting from tabulating incarcerated persons at the prison location. Three other states (California, Delaware, and Maryland) are taking a similar state-wide approach, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The states and localities that have decided to avoid the</p>

	<p>distortions of the current Census rule must create their own population data, because the Census Bureau is not yet publishing the data on home residence that is needed to count this population accurately. Other states find themselves unable to change their practices even when they would like to. The Massachusetts legislature, for example, concluded that the state constitution required it to follow Census Bureau data despite the inaccuracies with respect to incarcerated persons; so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>For all these reasons, the Census Bureau must modify its residence rule with respect to incarcerated persons so that all states and localities will have the opportunity to accurately reflect the incarcerated population in their redistricting plans.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because we believe in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c126	<p>I write in response to the U.S. Census Bureau’s Federal Register Notice on the Residence Rule and Residence Situations [80 FR 28950 (May 20, 2015)]. I strongly urge your office to count incarcerated people at their last home address instead of the current practice of using the correctional facility they happen to be in when the Census is counted.</p> <p>As a former State Representative for the City of Hartford, a Vice President of the Greater Hartford Labor Council and as a Board Member of the Capital Community College Foundation*, I know the impact that undercounting city residents has for our Capital City. Most correctional institutions in our state are located in very rural, very Caucasian towns. Most Connecticut inmates come from our state’s three biggest cities – Bridgeport, Hartford and New Haven. They are disproportionately African American and Latino. By using the current method of counting these inmates, the political power of our economically-depressed cities is significantly reduced.</p> <p>This is especially egregious because Connecticut has never fully addressed the inequities that stem from mal-apportionment of State Representative and State Senate districts from World War II to the mid-1960s. In 1964, ninety-six towns with an aggregate population of 303,086 (12 percent of the people) elected a majority of the State Representatives(148 of the 294). It was the most mal-apportioned lower house in the country. However, by the time the CT General Assembly had enacted a redistricting plan which withstood legal scrutiny, the population and power had shifted from the cities to the suburbs.</p> <p>Thank you for the opportunity to comment on this important issue affecting the people of Connecticut.</p> <p>*Capital Community College (CCC) has the 2nd highest percentage of minority students among 252 New England Schools and Colleges. Over 60% of the student body is African-American or Latino/a and CCC is the ONLY College in CT designated as a Hispanic Servicing Institution.</p>
c127	<p>I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>My name is _____, and I am a former _____, Louisiana school board member. As someone who represented what was considered a minority district that housed a prison, I am troubled by the way that incarcerated people are counted as residents of wherever they are imprisoned. As a minority myself, an American Indian, I believe that it is invaluable to our democracy that redistricting allows for equal representation of all people, and prison gerrymandering stands in the way of this.</p>

	<p>Because of the way incarcerated people are counted as residents of the particular facility that they happen to be imprisoned at on Census day, the people who live near _____ in _____ have greater political clout than those who do not for the sole reason that they happen to live near the prison. I represented the district that housed _____, and it was clear that the approximately 900 people imprisoned in this district were being counted in the wrong place.</p> <p>Another detriment of having the prison population count in my district is that it has limited my school enrollment to approximately 292 students. This school is a Pre-Kindergarten thru 12th grade school. The students in my district are not offered music past elementary, art, band nor football to list a few of the programs that are offered at <u>ALL</u> of the other Jr. High and High Schools in the _____ School System. Bond Taxes are forced on my district thru millage, knowing that we are starting 900 votes short on any election therefore we do not have the votes to vote it down even if every voter turned out. Over \$8 million was forced upon my district last bond election with very little being spent at our school. The bond tax previous to the \$8 million one was for \$22 million and out of that only \$1,200.00 was spent in my school. Starting out any election 900 votes short we do not have any choice in these millage taxes being levied against my district. We are rural and my district is where the millage tax comes from. This is <u>TAXATION WITHOUT REPRESENTATION!!!</u> 900 NO votes would cancel any tax in this parish. Not only is this affecting our voice it is affecting millions of dollars also.</p> <p>In 2012, our school board evaluated two redistricting plans including one that would have excluded the _____ population. I had hoped that my parish school board would follow the police juries in Avoyelles, Caldwell, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Grant, La Salle, Richland, West Carroll, West Feliciana, and Winn Parishes as well as the council-president in Iberville and adjust your Census counts of the prison population to avoid prison gerrymandering.</p> <p>Unfortunately, my colleagues on the school board voted for the plan that gives the district I represented unearned influence. I believe that many of my colleagues voted for the redistricting plan that used the prison population not out of any belief that people incarcerated there had anything to do with the administration of education in the school board but out of fear that by voting against prison gerrymandering they would somehow complicate negotiations to save the prison from closure. I saw that decision as unrelated; and the fact that the prison did close and is now in the process of reopening in a new and smaller form does illustrate that not only are the people who were confined in my district rather transient, so is the actual facility.</p> <p>To repeat in another way, my school board engaged in prison gerrymandering to give extra representation to the one district that didn't want the extra representation; and it did so using a prison population that it knew was expected to cease to exist in our Parish.</p> <p>For these reasons I urge you to count incarcerated people at their home addresses so that Parishes and School Boards like mine won't have to go through this unnecessary debate in the future. Thank you for this opportunity to comment.</p>
c128	<p>I represent Rhode Island House district _____ and submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the nation's population.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the</p>

	<p>growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Rhode Island I was the first member of the Rhode Island House of Representatives to introduce legislation on February 27, 2010, H 7833, the Residence of Those in Government Custody Act, to correct this problem for purposes of drawing new legislative districts.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universality implementable. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state to have to adjust the Census' data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because democracy relies on a population count that accurately represents communities, I urge you to count incarcerated people as residents of their home address.</p>
c129	<p>The American Civil Liberties Union submits this comment in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, specifically Section 13, "People in Correctional Facilities with Adults."¹ We urge you to count incarcerated people at their home address, rather than at the particular facility at which they happen to be located on Census day.</p> <p>For nearly 100 years, the ACLU has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country. The ACLU takes up the toughest civil liberties cases and issues to defend all people from government abuse and overreach. With more than a million members, activists, and supporters, the ACLU is a nationwide organization that fights in all 50 states, Puerto Rico, and Washington, D.C., for the principle that every individual's rights must be protected equally under the law, regardless of race, religion, gender, sexual orientation, disability, or national origin.</p> <p>I. <u>Background on the Need to Change the Current Residence Rule to Count Incarcerated People at their Home Address</u></p> <p>Under Article I, Section 2 of the Constitution, every inhabitant of the United States must be counted in the Census – but they must be counted in the correct place.²</p> <p>American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. In the 1980s, the incarcerated population in the U.S. totaled less than half a million, but since then, the nation's incarcerated population has more than quadrupled to over</p>

two million people.³ The significant growth in the nation’s prison population over the past 30 years requires the Census Bureau to update its methodology again, by changing the “usual residence” rule.

By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a normally city-based population that is disproportionately male and African-American or Latino into just 5,393 Census blocks that are located far from their actual homes and often in rural areas. In Illinois, for example, 60 percent of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99 percent of them as if they resided outside Cook County.⁴

When this data is used for redistricting, the political power of the areas where the prisons are located is artificially inflated. In New York after the 2000 Census, for example, seven state Senate districts only met population requirements because the Census counted incarcerated people as if they were residents of upstate New York, though most of the state’s prisoners are residents of New York City.⁵ For this reason, New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for state redistricting purposes.⁶

New York State is not the only jurisdiction taking action. Three other states, California, Delaware, and Maryland, are taking a similar state-wide approach, and more than 200 counties and municipalities each individually adjust population data to avoid prison-based gerrymandering when drawing their local government districts.⁷

But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses.⁸ A universal process by the Census Bureau is necessary to provide clarity and accuracy in representing our nation’s communities nationwide.

II. ACLU Efforts Nationwide to Ensure Fair and Accurate Representation

Until Bureau practice changes, the ACLU will work across the country to mitigate problems created by the current Census approach.

1. Maryland

In Maryland, the ACLU partnered with the NAACP and other community leaders to raise concerns about local redistricting practices in Somerset County, an area with a long, sad history of racial segregation and violence. Although the county is 42 percent African-American and includes the historically black University of Maryland, Eastern Shore, no black person had ever been elected or appointed to a top county office as of 2009. Prison-based gerrymandering was part of the reason. When the county had drawn new voting districts in the 1980s, to resolve a federal challenge to minority vote dilution, it included in its remedial “majority-minority” district the Eastern Correctional Institution (ECI), where prisoners were counted as residents for redistricting. The inmate population was large in comparison with the rest of the district, and mostly made up of people of color, while the rest of the district was mostly white. Because the inmate population was ineligible to vote in Somerset elections, the white, non-inmate population was overrepresented, and the district’s voting power was distorted in comparison to the county’s other districts.

As a result, the district did not function as a true remedial district and consistently elected white officials over the course of two decades. The ACLU and NAACP advocated for exclusion of the prison population from Somerset’s local redistricting database, and in 2010, the Maryland legislature responded by passing a law mandating that prisoners throughout Maryland be counted at their place of last residence, rather than their place of incarceration. Shortly thereafter, Somerset County’s first black County

Commissioner, Rev. Craig Mathies, was elected.⁹

2. New York

In New York, the ACLU defended the constitutionality of New York State's practice of counting incarcerated individuals at home. In 2010, the New York legislature passed a law, "Part XX," that requires that incarcerated persons be allocated to their home communities for redistricting and reapportionment of state and local legislative districts. The NYCLU, Brennan Center for Justice, the Center for Law and Social Justice, Dēmos, LatinoJustice PRLDEF, NAACP Legal Defense and Educational Fund, and Prison Policy Initiative, representing 15 rural and urban voters as intervenors, defended the law against a legal challenge brought by a state senator whose district included 12,000 incarcerated persons and was therefore significantly impacted by the law. In December 2011, a New York court ruled that the law was constitutional, and Part XX remains in effect today.

3. South Carolina

In South Carolina, the ACLU was victorious in a recent reapportionment case for the Jasper County School District that would have improperly counted the correctional population when creating school board districts.¹⁰ Jasper County's population in 2010 was 24,777. Located in that county is the Ridgeland Correctional Institution, with an average population of 1,163. The prisoners sent to that institution come from all counties in the state. The school board has 9 single-member districts. If the population calculations included the prisoners, each district would have needed to have 2,753 people, but one of the districts would have comprised over 40 percent prisoner population – unable to vote, resulting in unequal representation for voters in that district. Following a remedial order, all parties to the lawsuit agreed to remove the prison population from the calculations.¹¹

4. Florida

In Florida, the ACLU and the Florida Justice Institute filed a lawsuit challenging the redistricting plan that the Jefferson County Board of Commissioners and the Jefferson County School Board adopted in 2013, as a violation of the plaintiffs' Fourteenth Amendment right to equal representation under the "one person, one vote" principle of the Equal Protection Clause. The complaint, filed in March 2015, alleges that the defendants' decision to include the inmate population at Jefferson Correctional Institution ("JCI") unlawfully inflates the political strength of non-inmate residents in the district that houses the prison (District 3) and dilutes the voting strength of those living in all of the other districts in the county. The incarcerated population at JCI constitutes 43.2 percent of the voting-age population in the district. The ACLU argues that, the total population deviation when the prison is excluded at 42.63%, is far outside the constitutional limits on population deviation under the "one person, one vote" principle.¹² As a result, every four non-inmate residents of District 3 have as much political influence in county and school affairs as seven residents in any other district. Moreover, Jefferson County's decision to count non-resident inmates also underrepresents minority voting strength in the community as a whole. When the prison is excluded from the total population count, the Black voting age population decreases from 47.62 percent to 32.73 percent, and the Hispanic voting age population decreases from 7.35 percent to 2.80 percent.

5. Rhode Island

In Rhode Island, the ACLU has been working to address this issue through litigation and legislation. The problem is especially acute in Rhode Island because of the state's small size and the fact that its entire prison system is concentrated in one city, Cranston. Because everybody incarcerated at the prison is counted as a resident of Cranston, but barred from voting there, three voters in the City Council district where the prison is located have as much voting power as four voters in every other City Council district. In

February 2014, the ACLU filed a lawsuit challenging this malapportionment, and in September 2014, a federal judge denied the City's motion to dismiss the case.¹³ In addition, for the last three years, the ACLU has promoted legislation that would require all prisoners to be counted, for redistricting purposes only, at their last known address. In 2015 and 2014, the bill passed the Rhode Island Senate with bipartisan support, only to die in the House.¹⁴

6. New Hampshire

In New Hampshire, the ACLU has been advocating against the prison-based gerrymandering engaged in by the City of Concord. The Concord population according to the 2010 census is 42,695. Concord consists of 10 voting wards, each of which elects a representative to the local City Council. The goal behind the city's 2010 Redistricting Plan, which is currently in effect, is to have each of the City's 10 wards contain approximately 4,270 residents with a target deviation of +/-5%. However, Concord's 2010 Redistricting Plan, relying on Census Bureau data, specifically includes in the population of Ward 3 the Concord State Prison for Men, which houses 1,531 inmates.¹⁵ Thus, these inmates represent 34 percent of Concord's Ward 3's 4,459 population, though its prisoners are unable to vote.¹⁶ As a result of the inclusion of the prison population in Ward 3, the voting power of Ward 3's approximately 3,000 voting residents—who represent 66 percent of Ward 3's population—is strengthened, while the voting power of residents of the other nine wards is significantly diluted. The voting population size of Ward 3 represents an approximately 30 percent deviation from the target 4,270-per-ward population size.

7. Connecticut

In Connecticut, the ACLU continues to work towards a districting system that accurately reflects "one person one vote" principle by counting prisoners in their home communities rather than the location where they are incarcerated. The majority of Connecticut's prison beds are located in five small towns. Connecticut currently counts the people incarcerated in those prisons as residents of the towns in which the prisons are located. As a result, seven legislative districts are counted as having more than 1,000 additional residents than have actually chosen to live in those districts willingly. Earlier this year, the ACLU supported Senate Bill 980, which had a public hearing before the state Senate's judiciary committee. If passed, Senate Bill 980 would have made clear that the population of a prison should not be included as part of the population of the legislative district in which the prison is located.

8. New Jersey

In New Jersey, the ACLU has supported legislation to end prison-based gerrymandering in the last several legislative sessions. New Jersey's demographic realities illustrate how the current system unfairly inflates or deflates the voting power of certain communities. Camden County, a largely urban county, has only six percent of the state's population, but its residents account for 12 percent of the state's prisoners. Essex County, too, sends a disproportionate number of people to prison: It is home to less than nine percent of New Jerseyans, but its residents account for 16 percent of its incarcerated population. On the other hand, rural Cumberland County is home to three large prisons, which account for almost five percent of the total county population. This means the voting power of residents living in Cumberland County is artificially inflated by a significant amount as a result of the prisoners being counted there, and voting power in Camden and Essex counties is likewise diminished.

9. Wisconsin

In Wisconsin, a state prison population of fewer than 5,000 persons in 1978 has, by 2014, grown to more than 22,000 persons. Wisconsin has, by far, the highest rate of incarceration of African-American men in the United States, with about 1 in 8 working-age

	<p>African-American men behind bars. Wisconsin similarly leads the nation in incarceration of Native American men, with about 1 in 13 working-age Native American men behind bars. These individuals are routinely incarcerated far from their home communities, they cannot and do not vote while incarcerated, and their interests are seldom represented in the communities in which they are counted for census purposes. Meanwhile, the communities from which these prisoners come, to which they are likely to return, and with whose other residents they share policy interests are deprived of political representation. The disparity is so stark that, planning maps for the Milwaukee metropolitan area make special note of the fact that minority population concentrations outside the central city are due to incarcerated populations.¹⁷</p> <p>Additionally, at the federal level, the ACLU has met with Director John H. Thompson to call on the Census Bureau to change the “usual residence” rule as it relates to people in prison.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations. Because the ACLU believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address. Please contact _____, Legislative Policy Analyst, at _____, if we can provide further information.</p> <p>¹ 2020 Decennial Census Residence Rule and Residence Situations, 80 Fed. Reg. 28, 950 (May 20, 2015).</p> <p>² ACLU, EVERYTHING YOU ALWAYS WANTED TO KNOW ABOUT REDISTRICTING BUT WERE AFRAID TO ASK 10, 28 (2010), <i>available at</i> https://www.aclu.org/report/everything-you-always-wanted-know-about-redistricting-were-afraid-ask.</p> <p>³ SENTENCING PROJECT, FACT SHEET: TRENDS IN U.S. CORRECTIONS 2 (2015), <i>available at</i> http://sentencingproject.org/doc/publications/inc_Trends_in_Corrections_Fact_sheet.pdf.</p> <p>⁴ PRISON POLICY INITIATIVE, PRISON-BASED GERRYMANDERING IN ILLINOIS (2010), <i>available at</i> http://www.prisonersofthecensus.org/factsheets/il/IL_state.pdf.</p> <p>⁵ Peter Wagner, <i>Breaking the Census: Redistricting in an Era of Mass Incarceration</i>, 1243, 1241-1260 (2012), <i>available at</i> http://open.wmitchell.edu/cgi/viewcontent.cgi?article=1471&context=wmlr; PRISON POLICY INITIATIVE, NEW YORK’S CENSUS ADJUSTMENT ACT (2010), <i>available at</i> http://www.prisonersofthecensus.org/factsheets/ny/NY_census_adjustment_act.pdf.</p> <p>⁶ N.Y. CORRECT. LAW § 71(8) (2012).</p> <p>⁷ Prison Policy Initiative, Prison Gerrymandering Project: Solutions, http://www.prisonersofthecensus.org/solutions.html (last visited July 20, 2015).</p> <p>⁸ See The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014, and the House of Representatives on August 14, 2014).</p> <p>⁹ For additional information on the successful reform achieved in Maryland, please see comments jointly submitted by the ACLU of Maryland and the Maryland State Conference of the NAACP.</p> <p>¹⁰ <i>Fraser v. Jasper County</i>, South Carolina, School District, No. 9:14-2578 (D. S.C. Apr. 30, 2015).</p> <p>¹¹ <i>Id.</i> (Remedial Order), <i>available at</i> http://www.aclusouthcarolina.org/files/9314/3162/5709/2015-04-30_JasperCtyRemedialOrder.pdf.</p> <p>¹² <i>Calvin et al. v. Jefferson County</i> (N.D. Fla. filed Mar. 9, 2015) (Complaint), <i>available at</i> https://aclufl.org/resources/calvin-et-al-v-jefferson-county-prison-gerrymandering-complaint/.</p> <p>¹³ <i>Davidson v. City of Cranston</i>, 42 F.Supp. 3d 325 (D. R.I. 2014).</p> <p>¹⁴ Press Release, Prison Policy Initiative, Rhode Island Senate votes to end prison gerrymandering (Mar. 5, 2015), <i>available at</i> http://www.prisonersofthecensus.org/news/2015/03/05/risenate-s0239/.</p> <p>¹⁵ However, under New Hampshire law, inmates are not deemed to be domiciled in Ward 3 by virtue of their imprisonment. See N.H. RSA 654:2-a.</p> <p>¹⁶ See N.H. RSA 607-A:2, I(a).</p> <p>¹⁷ For additional information on the impact in Wisconsin, please see comments submitted by the ACLU of Wisconsin, the Benedict Center, the Justice Initiatives Institute (JII), the NAACP-Milwaukee Branch, and WISDOM.</p>
c130	<p>I am writing in response to your federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015) to urge you to count incarcerated people in their home districts.</p>

	<p>My name is _____ and I live and work in Essex County in northern New York, near the border with Canada. I live in the state’s largest and most sparsely populated Senate district. My Senate district has more people incarcerated in state prisons than any other district in the state.</p> <p>I would like to focus my comment on documenting that my county does not consider incarcerated people to be residents of our county. Prior to the passage of Part XX in 2010 that ended prison gerrymandering in New York State, counties like mine had a choice as to whether to use the prison populations in county redistricting. My county, and all neighboring counties that also contained prisons, all choose not to count the prison populations when drawing county districts or designing weighted voting systems.</p> <p>My county, Essex, justified its decision in its local law with a lengthy discussion on the practical and legal grounds of why inmates are not residents of the county. While I understand that more than 200 counties across the United States do this as well, I have read that my county was the one of the few to put its reasoning in writing and then vote it in to law.</p> <p>For that reason, I would like to share with you part of Essex Local Law No 144 of 2012:</p> <p style="padding-left: 40px;">“Persons incarcerated in the state and federal correctional institutions have been convicted of criminal acts constituting felonies and their presence in Essex County is considered involuntary. These incarcerated persons: are not residents of the County since they are here involuntarily and can be relocated by the Commissioner of Corrections at the latter’s discretion; are not entitled to vote and thus are not voters in Essex County; and receive no services from the County - except when they commit new criminal acts and are brought before County Court, or when they are entitled to assignment of counsel as indigents in connection with parole hearings under New York Executive Law Article 12-B. Persons incarcerated in state and federal correctional institutions live in a separate environment, do not participate in the life of Essex County, and do not affect the social and economic character of the towns in which they are located.</p> <p style="padding-left: 40px;">“The inclusion of these federal and state correctional facility inmates unfairly dilutes the votes or voting weight of persons residing in other towns within Essex County.”</p> <p>Very similar language was also used in Essex County Local Law No. 1 of 2003. Recognizing that you may not have ready access to my small county’s local laws, I have attached the 2003 and 2012 laws to this letter.</p> <p>I urge you to follow the lead of Essex County New York and count incarcerated people as residents of their pre-incarceration addresses and not as residents of my county.</p> <p>Thank you for your consideration.</p>
c131	<p>As a coalition of groups involved with the 2011 Massachusetts Redistricting process, we submit 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). We urge you to change the way the Census Bureau counts incarcerated people. Rather than counting them at the particular facility that they happen to be located at on Census day, we urge you to count them at their home addresses.</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census and for the voting strength of certain communities.</p>

By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks, which are located far from the actual homes of incarcerated people. Just two examples of specific impacts in Massachusetts include:

- Without using prison populations as padding, 5 Massachusetts House districts drawn after the 2000 Census did not meet constitutional population requirements. For example, while each House district in Massachusetts should have had 39,682 residents, the 3rd Suffolk District, which claimed the population of the Suffolk County House of Corrections, had only 36,428 actual residents. This means that the actual population of the district was 8.2% smaller than the average district in the state.
- When the city of Gardner last updated their districts in 2001, they were faced with the prospect of giving the residents on the eastern side of the city, near the state prison, extra influence over city affairs, or rejecting the flawed Census counts. The City Council ruled to reject the Census counts because doing otherwise would have given each group of 8 people who live near the prison as much say over city affairs as every group of 10 residents elsewhere in the city.

In 2011, advocates like us asked the Massachusetts Joint Committee on Redistricting to reverse the “usual residence” policy like Gardner did and to count persons at their legal address prior to incarceration, rather than in prison for state districts. The Committee agreed with us that the way prisoners are counted does a disservice to the state and should be changed. However, the Committee and legal counsel thought that the Massachusetts state Constitution, which dictates that the federal census be the basis for determining the representative, senatorial, and councillor districts, would prevent Massachusetts from unilaterally changing this rule for these districts. Instead, the Committee recommended to the General Court that it adopt a resolution calling for such a change to send to Congress and to the Census Bureau. Such a resolution was passed on August 14, 2014 (attached).

In fact, currently four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts. But as we have seen, this is not an approach that is unilaterally applicable.

For these reasons, we urge you to change Census Bureau policy to count incarcerated people as residents of their home address, rather than at the place of their incarceration. Thank you for this opportunity to comment on the Residence Rule and Residence Situations.

***The Massachusetts General Court
Resolutions***

**URGING THE CENSUS BUREAU TO PROVIDE REDISTRICTING DATA THAT COUNTS PRISONERS
IN A MANNER CONSISTENT WITH THE PRINCIPLES OF “ONE PERSON, ONE VOTE”.**

WHEREAS, OBTAINING AN ACCURATE COUNT OF THE POPULATION IS SO VITAL TO REPRESENTATIVE DEMOCRACY THAT THE FRAMERS OF THE UNITED STATES CONSTITUTION ADDRESSED THE ISSUE OF THE CENSUS AND APPORTIONMENT IN THE OPENING PARAGRAPHS OF THE CONSTITUTION; AND

WHEREAS, THE MASSACHUSETTS CONSTITUTION REQUIRES THAT FEDERAL CENSUS DATA BE THE BASIS FOR STATE REDISTRICTING; AND

	<p>WHEREAS, THE CENSUS BUREAU CURRENTLY HAS A POLICY OF COUNTING INCARCERATED PEOPLE AT THE ADDRESS OF THE CORRECTIONAL INSTITUTION, EVEN THOUGH FOR OTHER LEGAL PURPOSES THEIR HOME ADDRESS REMAINS THEIR LEGAL RESIDENCE; AND</p> <p>WHEREAS, THIS CENSUS DATA RESULTS IN DISTORTIONS OF THE ONE-PERSON, ONE-VOTE PRINCIPLE IN DRAWING ELECTORAL DISTRICTS IN MASSACHUSETTS, DILUTING THE REPRESENTATION OF THE MAJORITY OF DISTRICTS THAT DO NOT CONTAIN PRISONS; AND</p> <p>WHEREAS, THE SIMPLEST SOLUTION TO THE CONFLICT BETWEEN FEDERAL CONSTITUTIONAL REQUIREMENTS OF "ONE PERSON, ONE VOTE" AND MASSACHUSETTS CONSTITUTIONAL REQUIREMENTS OF USING THE FEDERAL CENSUS IS FOR THE CENSUS BUREAU TO PUBLISH REDISTRICTING DATA BASED ON THE LOCATION OF AN INCARCERATED PERSON'S RESIDENCE, NOT PRISON LOCATION; AND</p> <p>WHEREAS, THE CENSUS BUREAU HAS ALREADY RECOGNIZED THE DEMAND FROM STATES AND COUNTIES FOR DATA THAT BETTER REFLECTS THEIR ACTUAL POPULATIONS, AND HAS AGREED TO RELEASE DATA ON PRISON POPULATIONS TO STATES IN TIME FOR REDISTRICTING, ENABLING SOME STATES TO INDIVIDUALLY ADJUST THE POPULATION DATA USED FOR REDISTRICTING; AND</p> <p>WHEREAS, PUBLIC LAW 94-171 REQUIRES THE CENSUS BUREAU TO WORK WITH STATES TO PROVIDE GEOGRAPHICALLY RELEVANT DATA AND THE CENSUS BUREAU HAS BEEN RESPONSIVE TO STATE'S DATA NEEDS FOR THE PAST 3 DECADES; NOW THEREFORE BE IT</p> <p>RESOLVED, THAT THE MASSACHUSETTS GENERAL COURT HEREBY URGES THE CENSUS BUREAU, IN THE NEXT CENSUS AND THEREAFTER, TO PROVIDE STATES WITH REDISTRICTING DATA THAT COUNTS INCARCERATED PERSONS AT THEIR RESIDENTIAL ADDRESS, RATHER THAN THE ADDRESS OF THE CORRECTIONAL INSTITUTION WHERE THEY ARE TEMPORARILY LOCATED; AND BE IT FURTHER</p> <p>RESOLVED, THAT A COPY OF THESE RESOLUTIONS BE TRANSMITTED FORTHWITH BY THE CLERK OF THE SENATE TO THE DIRECTOR OF THE CENSUS BUREAU.</p>
c132	<p>I hope you are doing well. I am writing on behalf of the Prison Justice League (P JL) to comment in response to the Census Bureau's federal register notice regarding Residence Rule and Residence Situations 80 FR 28950 (May 20, 2015). P JL is a civil rights organization that works to improve conditions in Texas prisons through litigation, advocacy, and by empowering our members. As a civil and human rights organization that works with incarcerated people every day, I urge you to change the current system of counting prisoners where they are incarcerated instead of at their home address.</p> <p>The prison system in Texas is one of the largest in the nation, incarcerating over 150,000 individuals across the state. Incarceration rates disproportionately impact communities of color, particularly African Americans. Although African Americans represent only 12% of the total state population, they represent over 30% of the prison population.</p> <p>Furthermore, most incarcerated people reside in urban counties before being sent to prison but most prisons are in rural parts of the state. In general, rural areas of the state are white and conservative, while urban areas are more diverse and less conservative. Counting prisoners in prison for census purposes distorts the population data that is so critical to accurately apportion congressional districts.</p> <p>Thank you for the opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the correct place. The Prison Justice League believes in a population count that accurately represents communities, and we urge you to count incarcerated people as residents of their home address.</p>

c133	<p>The National LGBTQ Task Force is pleased to have the opportunity to comment on the Residence Rule and Residence Situations for the 2020 Decennial Census. We applaud the efforts of the Census Bureau to count people experiencing homelessness. This comment seeks to highlight the unique ways that lesbian, gay, bisexual, transgender, and queer (LGBTQ) people often experience homelessness. Changing pieces of language and adding examples that more clearly reflect the reality of LGBTQ people experiencing homelessness will help ensure an accurate population count and therefore adequate resource distribution.</p> <p>Of course, the utility of having an accurate count of LGBTQ people experiencing homelessness will increase significantly if sexual orientation and gender identity measures are included on the census survey, something that the National LGBTQ Task Force continues to recommend. Even without such measures, however, the LGBTQ community will benefit from being fully counted.</p> <p style="text-align: center;"><u>Research Findings</u></p> <p>1. LGBTQ People Are Disproportionately Likely to Experience Homelessness</p> <p>LGBTQ youth, including those questioning their sexual orientation or gender identity, face high levels of rejection from their homes, pervasive discrimination in service-providing institutions, and significant lack of access to the safety net systems designed to house and protect vulnerable youth. One study indicates that fully one half of LGBTQ youth experience negative reactions from family members when they come out as LGBT, while one quarter are ejected from their homes.ⁱ While the foster care and adoption system acts as a safety net to protect those youth who are rejected from their families or have no family to start with, reactions to expression of sexual orientation or gender identity in this system may be even worse. Youth often run away from foster and group homes because they are mistreated or harassed,ⁱⁱ and a full one-third of all youth who come out as LGBT while in the care of social services experience a violent sexual assault.ⁱⁱⁱ In addition, studies show that 12%-36% of youth report being homeless at least once after being emancipated from foster care.^{iv}</p> <p>In addition, LGBTQ youth are disproportionately represented in child welfare and juvenile justice systems,^v face increased victimization at school,^{vi} and lack protections against employment and housing discrimination in a majority of states.^{vii} Housing discrimination has a particularly stark impact on transgender and gender non-conforming people – 19% of respondents in one study were denied a home or apartment and 11% were evicted because of their gender identity or expression.^{viii}</p> <p>Because of this multi-faceted discrimination and the resultant inability to find refuge, LGBTQ youth face homelessness at alarming rates. Difficulties in counting youth experiencing homelessness render an exact number difficult to report, but estimates range from just over 500,000 to 1.7 million.^{ix} Of this population, an estimated 20% to 40% of homeless youth in the United States identify as – or believe they may be – LGBTQ,^x compared to an estimated 5% to 7% of youth in the general population.^{xi} Thus, LGBTQ youth are disproportionately represented in the homeless population.</p> <p>LGBTQ adults also face pervasive discrimination, particularly in the employment and housing contexts. They also face disproportionate rates of poverty. Same-sex couples are more likely to live in poverty, especially if they are African American and/or have children.^{xii} And transgender people are four times more likely to live in extreme poverty (making less than \$10,000 a year) than cisgender people.^{xiii} In addition, 19% of transgender and gender non-conforming people reported being homeless at some point in their lives, and 1.7% were homeless at the time of the study, compared to an estimated 0.9% of the general population.^{xiv} Thus, while we lack statistics on the adult homeless population, there is strong reason to believe that LGBTQ adults are also more likely to experience homelessness.</p> <p>2. LGBTQ People Experience Homelessness in Unique Ways</p>
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In addition, LGBTQ people tend to experience homelessness in unique ways. Research indicates that shelters can be difficult places for LGBTQ youth and adults. LGBTQ youth may worry that shelters will contact the local child and family services office and attempt to reconnect them with their families, many of which are openly hostile about the youth's sexual orientation or gender identity. In addition, a 2010 survey of transgender people found that 29% had been turned away from a shelter because of their transgender status, 42% were forced to stay in facilities designated for the wrong gender, and others encountered a hostile environment.^{xv} These circumstances make transgender people less likely to seek shelter altogether, or to do so intermittently.

LGBTQ youth and adults use various strategies to secure shelter. Many LGBTQ youth end up “couch-surfing,” staying with friends or acquaintances for short or indefinite periods of time.^{xvi} And a recent study of LGBTQ youth experiencing homelessness found that they are 7 times more likely to trade sex for shelter than their heterosexual counterparts.^{xvii} Similarly, 25% of transgender and gender non-conforming people report staying with friends or family, and 12% report having sex with people in order to sleep in a bed.^{xviii}

Recommendations to the Residence Rule and Residence Situations

The tendency of LGBTQ people to experience homelessness in unique ways yields two important considerations for counting them through the Census. First, because LGBTQ people are less likely to use group shelters, they are less likely to be counted there on Census Day. Second, to the extent that they couch-surf or exchange sex for a place to sleep, LGBTQ people may be less likely to be regarded as “residents” by those with whom they are staying. Census respondents might assume that such people have another residence where they spend more time or might otherwise dismiss counting them as part of their residence. This is especially likely if they are staying somewhere else on Census Day. LGBTQ youth might be particularly likely to be overlooked and uncounted because Census respondents might mistakenly assume that the youth are being counted by their parents or guardians.

This pattern is compounded by the fact that LGBTQ people are disproportionately likely to experience homelessness, amounting to a strong probability that many LGBTQ people are left uncounted. Because the Decennial Census has implications for apportioning seats in the House of Representatives, it is important that we count the U.S. population accurately and in full. And because resources are distributed based on these figures, an accurate count is necessary to get crucial support to members of the LGBTQ community who are experiencing homelessness.

The following recommendations attempt to address the concern that this group is being overlooked and uncounted in Census reporting.

1. Residence Rule – Add a fourth bullet point that better captures LGBTQ people experiencing homelessness and provides clearer guidance for Census respondents

- a. Explanation: The rule itself addresses people in facilities and shelters, but it does not expressly address other people experiencing homelessness. In addition, it does not provide clear guidance to Census respondents -- it does not address how to determine whether someone has a usual residence, nor does it address situations where people have a place where they live and sleep more than anywhere else but not “most of the time.” The suggested language remedies this issue.
- b. Recommendation: Add the following as a fourth bullet point:

- *Someone who stays at different places periodically or intermittently might not have a usual residence. Ask them whether they have a place where they live and sleep more than anywhere else. If the answer is ‘Yes,’ they should be counted at that place. If the answer is ‘No,’ they should be counted where they are on Census Day.”*

2. Residence Situations

- **Situation 2. Visitors on Census Day – Eliminate this category and, instead, include its examples in Situation 1**
 - a. Explanation: “Visitor” is a vague term that could include people who are living and sleeping at a place temporarily. Because LGBTQ people experiencing homelessness are more likely to couch-surf or stay with people temporarily, they might be understood as “visitors” by Census respondents with whom they are staying. The examples provided in Situation 2, however, involve people who have other residences, and they instruct the Census respondent not to count them. This type of situation is better reflected in Situation 1: “People Away From Their Usual Residence on Census Day.” By getting rid of Situation 2 and instead incorporating its examples into Situation 1, Census respondents will be less likely to mistakenly consider a temporary guest who *should* be counted as part of their residence as a “visitor” who should not be counted as part of their residence.
 - b. Recommendation: Eliminate the heading for Situation 2, re-label its two examples to “b” and “c” respectively, and include them in Situation 1.
- **Situation 3. People Who Live in More Than One Place – Change the heading to “People With Multiple Residences”**
 - a. Explanation: The current heading of this section – “People Who Live in More Than One Place” – could apply to LGBTQ people experiencing homelessness. But the following section (Situation 4) handles such people better, providing clearer examples and guidance. To avoid the possibility that a Census respondent might be confused as to how to categorize a person staying with them or might not read Section 4, the heading of Section 3 should more adequately distinguish people who travel for work or travel seasonally between residences from people who are experiencing homelessness and ensure that all people get counted.
 - b. Recommendation: Change this heading to “*People With Multiple Residences.*”
- **Situation 4. People Without a Usual Residence**
 - a. Explanation: This section gives examples of where people experiencing homelessness might be counted (i.e. soup kitchens, mobile food vans, and outdoor locations). These examples, however, represent a more typical conception of homelessness, which often does not align with LGBTQ people experiencing homelessness. Because Census respondents might overlook youth or adults who are staying with them for short or indefinite periods, including this as another example would be illustrative and provide clearer guidance.
 - b. Recommendation: Add the following:

(d) Couch-surfers, youth experiencing homelessness, or other people staying in your residence for short or

indefinite periods of time—Counted at the residence where they live and sleep most of the time. If there is no residence where they live and sleep most of the time, they are counted where they live and sleep more than anywhere else. If time is equally divided, or if a usual residence cannot be determined, they are counted at the residence where they are staying on Wednesday, April 1, 2020 (Census Day).

- **Situation 8: Nonrelatives of the Householder**

a. Explanation: This section gives examples of people who might be staying in one’s home and guidance about how to count them. Because the heading of this section references the “householder,” it might be more likely to be read by the head of a household than other sections with less descriptive headings (e.g. People Without a Usual Residence). In addition, because it reference “nonrelatives,” this section is particularly relevant to householders who have provided space for someone experiencing homelessness. Thus, including a more specific example of people experiencing homelessness would be illustrative and provide clearer guidance to Census respondents.

b. Recommendation: Add the following:

(f) *Couch-surfers, youth experiencing homelessness, or other people staying in your residence for short or indefinite periods of time*—Counted at the residence where they live and sleep most of the time. If there is no residence where they live and sleep most of the time, they are counted where they live and sleep more than anywhere else. If time is equally divided, or if a usual residence cannot be determined, they are counted at the residence where they are staying on Wednesday, April 1, 2020 (Census Day).”

The National LGBTQ Task Force urges the U.S. Census Bureau to integrate these recommendations into the Residence Rule and Residency Situations for the 2020 Decennial Census. Thank you for taking the time to consider them. If you have any questions regarding these comments, please contact _____, Senior Policy Counsel, at _____ or _____.

ⁱ National LGBTQ Task Force, *Lesbian, Gay, Bisexual and Transgender Youth: An Epidemic of Homelessness* (2006), at 2 (citing Thompson, S. J., Safyer, A. W. & Pollio, D. E., *Differences and Predictors of Family Reunification Among Subgroups of Runaway Youths Using Shelter Services*, 25 SOCIAL WORK RESEARCH (2001)).

ⁱⁱ Lambda Legal, *National Best Practices for Serving LGBT Homeless Youth*, at 1 (Apr. 2009).

ⁱⁱⁱ National LGBTQ Task Force, *supra* note 1.

^{iv} National Alliance to End Homelessness, *LGBTQ Homeless Youth Fact Sheet*, <http://www.safeschoolscoalition.org/LGBTQhomelessFactSheetbyNAEH.pdf> (last visited July 20, 2015).

^v Office of Juvenile Justice & Delinquency Prevention, *LGBTQ Youths in the Juvenile Justice System*, <http://www.ojjdp.gov/mpg/litreviews/LGBTQYouthsInTheJuvenileJusticeSystem.pdf> (last visited July 20, 2015).

^{vi} GLSEN, THE 2011 NATIONAL SCHOOL CLIMATE SURVEY (2012), *available at* <http://www.glsen.org/press/2011-national-school-climate-survey>.

^{vii} *State Nondiscrimination Laws in the U.S.*, National LGBTQ Task Force, http://www.thetaskforce.org/static_html/downloads/reports/issue_maps/non_discrimination_5_14_color_new.pdf (last updated May 21, 2014).

^{viii} NAT’L LGBTQ TASK FORCE & NAT’L CTR. FOR TRANSGENDER EQUALITY, INJUSTICE AT EVERY TURN (2012), at 4, *available at* http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf [hereinafter INJUSTICE AT EVERY TURN].

^{ix} NAT’L ALLIANCE TO END HOMELESSNESS, THE STATE OF HOMELESSNESS IN AMERICA 2012, at 13 (Jan. 2012).

^x *LGBTQ Youth Homelessness in Focus*, U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, http://usich.gov/issue/lgbt_youth/lgbtq_youth_homelessness_in_focus/ (last visited July 20, 2015).

^{xi} See Jerome Hunt & Aisha C. Moodie-Mills, *The Unfair Criminalization of Gay and Transgender Youth*, CTR. FOR AM. PROGRESS (June 20,

	<p>2012), https://www.americanprogress.org/issues/lgbt/report/2012/06/29/11730/the-unfair-criminalization-of-gay-and-transgender-youth/.</p> <p>^{xii} Badgett, M.V. Lee, Durso, Laura E., & Schneebaum, Alyssa, <i>New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community</i>, THE WILLIAMS INSTITUTE (June 2013), http://williamsinstitute.law.ucla.edu/research/census-lgbt-demographics-studies/lgbt-poverty-update-june-2013/.</p> <p>^{xiii} INJUSTICE AT EVERY TURN, <i>supra</i> note 8, at 2.</p> <p>^{xiv} ID. at 106.</p> <p>^{xv} ID.</p> <p>^{xvi} <i>LGBTQ Youth Homelessness in Focus</i>, <i>supra</i> note 10.</p> <p>^{xvii} Meredith Dank et al., Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YSWW Engaged in Survival Sex (Feb. 15, 2015), http://www.urban.org/research/publication/surviving-streets-new-york-experiences-lgbtq-youth-ymsm-and-yssw-engaged-survival-sex/view/full_report.</p> <p>^{xviii} INJUSTICE AT EVERY TURN, <i>supra</i> note 8, at 106.</p>
c134	<p>The League of Women Voters of Delaware urges the Bureau to correct its long-standing practice of counting incarcerated individuals as residents of the prison cells where they happen to be located on Census day rather than their home communities. This practice has created the problem known as "prison-based gerrymandering."</p> <p>We believe that the Census Bureau's current method of assigning residence to incarcerated people is bad for democracy and inconsistent with the principle of "one person, one vote" as enunciated by the Supreme Court in Reynolds v. Sims (1964).</p> <p>When legislative districts are drawn based on the census numbers, incarcerated individuals become "ghost constituents" of districts that contain prisons. In Delaware, 25 percent of male prisoners and 40% of female prisoners are on pre-trial detention. They and others who are not felons are eligible to vote by absentee ballot at their home address, not at the location of the prison. Even felons, who are eligible to vote after completing their sentences, typically spend less than the ten years between Census counts and will be back in their home districts before the next Census.</p> <p>Allocating prisoners to legislative districts where the prison is located artificially inflates the political power of the districts where the prisons are located, while their home communities—often predominantly poor and minority—suffer the inverse effects of losing representation and voting strength for a decade. This issue has been exacerbated as our prison population has soared in the last few decades and, as a result, has increased the inequity of the current residence rule.</p> <p>In 2010, Delaware became the second state to pass a law to end prison-based gerrymandering. House Bill 384 (145th General Assembly) required the Department of Correction to collect the home addresses of incarcerated people and required the legislature to draw its districts on the basis of Census Bureau data corrected to count incarcerated people at their home addresses.</p> <p>The bill was sponsored by Rep. Helene Keeley and Senator Margaret Rose Henry with several additional sponsors and cosponsors. Although Senator Henry represents a legislative district that contains a prison currently counted as part of her district, she and other legislators recognized that the issue of fairness and accuracy in statewide redistricting should take precedence over individual concerns.</p> <p>Unfortunately, even though our Department of Correction provided home addresses, Delaware was unable to arrange for the geocoding of this address data in time for the legislature to meet its deadline for finalizing their redistricting proposals. As a result, our legislature reluctantly postponed full implementation until 2021.</p> <p>A change in the Bureau's residence rule for incarcerated people would allow Delaware - and other states - to eliminate the inequities of prison-based gerrymandering and meet the state's needs in a much more streamlined and cost-effective manner.</p>

	We urge the Bureau to correct its residence rule for prisoners for the 2020 Census!
c135	<p>The City of Havelock respectfully responds to your request for comments on the 2010 Census Residence Rule. As the proud host city to Marine Corps Air Station Cherry Point, Havelock seeks to ensure that the heroes who live among us are fairly and adequately counted.</p> <p>At the center of the issue is the question of where their usual residence is. We contend there is no question that whether deployed for a short period or even in time of war, our military associated with this base and those similarly situated, have their usual residence here. This is where their families are and clearly where they intend to return after a deployment.</p> <p>Havelock, Craven County and similar military communities were deeply affected by the count during the 2010 Census that set the service member's Census enumeration as their Home of Record, but left confused family members in the same household to reconcile a directive that they be considered residents of this community. For many, they simply did not fill out the forms because of this confusion.</p> <p>We ask that you treat our military as you do others who have work that requires them to travel or temporarily be somewhere for that work. Their intentions are to return to their usual residence where their family and community ties exist.</p> <p>We appreciate this opportunity to speak about an issue that has significantly impacted our community's status and ability to serve these dedicated service members. We stand ready to speak further on this issue and thank you for receiving this and our attached comments.</p> <p>City of Havelock, NC Response to Federal Register Request for comments on the 2020 Census Count Issues Specifically: Census of Military Persons during Deployments, wartime and normal rotation June 2015</p> <p>Summary During the 2010 Census, Vietnam era guidance was used to count deployed military at their home of record rather than from the bases and host communities where they lived. Family members were to be counted at their homes on or in the communities around the bases, but many families incorrectly assumed the guidance also applied to them, and did not complete Census documents reflecting their status. For the State of North Carolina, thousands of servicemembers were enumerated at locations that had little to do with them, and for the host communities around the bases, the loss of an accurate count resulted in perceptions of a poor economy, reduced revenues based on population and a much reduced base count on which a decade of estimates are now based.</p> <p>Request To work with the services to determine the best method of counting, including temporary deployments and deployments during wartime or simply count the military with their spouses where that is their usual residence, even if both spouses are deployed. The City requests deployed military members be counted at their usual residence in 2020. That is the usual residence from which they deployed from, and the one to which they intend to return. The City believes this rule, which follows the logic of other persons temporarily away from their home working are counted at their usual place of residence, should apply both in wartime and for non-wartime deployments.</p>

Background

Guidance for the 2010 military counts came from a specific publication:

*"The military overseas population includes U.S. military personnel deployed for **wartime** efforts and U.S. military personnel on U.S. military vessels with a homeport outside the United States." Citation from 2010 Census publication D-3277*

From the Residency rules in the public notice for Military Persons:

"1(a) People away from their usual residence on Thursday, April 1, 2010 (Census Day), such as on a vacation or a business trip, visiting, traveling outside the U.S., or working elsewhere without a usual residence there (for example, as a truck driver or traveling salesperson)—Counted at the residence where they live and sleep most of the time. (80 FR 28950)

"9(a) U.S. military personnel living in military barracks in the U.S.—Counted at the military barracks.

"9(b) U.S. military personnel living in the U.S. (living either on base or off base) but not in barracks—Counted at the residence where they live and sleep most of the time. (80 FR 28951)

"9(c) U.S. military personnel on U.S. military vessels with a U.S. homeport—Counted at the onshore U.S. residence where they live and sleep most of the time. If they have no onshore U.S. residence, they are counted at their vessel's homeport. (80 FR 28951)

Effects from the 2010 Census in our area:

1. **Single Military** who were stationed at area bases (communities) who were **deployed** were **not counted** as **residents** of their bases.
2. **Military with families** (on or off bases) who were deployed were **not counted where their families were**.
3. **Military associated persons living off base were less likely to fill out Census forms when their military member was told they would be counted elsewhere**

Our View

The premise of the rules cited in the request for comment Federal Register Residency Rules directs that if someone is temporarily away from their usual place of residence, they should be counted at their usual place of residence. The City of Havelock encourages this premise to apply to military persons who are temporarily deployed.

For purposes of our discussion, we used the Marine Corps term deployed, which in most cases indicates a temporary assignment, duty or otherwise not permanent assignment for an individual or a unit. A temporary assignment could be up to a year or more.

In 2010, a large number of military persons assigned to bases within North Carolina were counted at their home of record because they were deployed. Many of those persons assigned in North Carolina, but not counted in North Carolina, were temporarily assigned to the War on Terror or assigned to routine training. The publically facing basis was the application of a rule cited in the 2010 Census

publication D-3277 which as stated above, called on wartime deployments to be counted at their home of record.

For those assigned to Marine Corps Air Station Cherry Point, it was clear that they were to return to the base from where they deployed and where their families and loved ones were still in residence, and not return to their home of record. In the case of a single service member who resides in the barracks, the barracks rooms are reassigned to different service members during the deployed period but a room at the same base will be assigned upon the service members return from deployment.

Because they were assigned to units associated with area bases, the service members have a usual (not necessarily specific) residence on or nearby the bases. Their assignment, even in wartime, is temporary and they intend to return to their usual residence on or nearby the bases from which they were deployed.

It is estimated that the 2010 Census had about 25,000 to 34,000 troops from North Carolina counted elsewhere. Nationally, about 1.4 million persons were counted away from their assigned bases in 2010. NC gained 30,298 in counting the home of record status for all troops. This count does not accrue to local jurisdictions, but only to the entire state's population count for apportionment.

The failure to count these troops as residents led to perceptions of a significant loss of population for our community. It caused those who read the headlines to back away from economic advances for our community. Additionally, the lower count robbed local communities of allocated revenues based on population used to support the military families and other citizens of our community.

The counting of military personnel on Military vessels with a U.S. homeport also needs adjustment. Marines from North Carolina bases deploy on U.S. vessels home ported in other states. Married service members have an onshore residence in the State of North Carolina but single service members who have given up their barracks room or residence for the duration of the deployment were not counted in North Carolina. These service members are not considered permanent "Ships Company" and should not be counted at the ships homeport. Service Members from deployed Marine Units, even on Ships, should be counted at their permanent assigned duty station or base.

Home of Record frequently not accurate

During the preparation for the 2010 Census, City officials contacted the Special Populations branch to inquire about military counts. Technical Paper 62 was cited as the guidance for the directive in 2010 Census publication D-3277. The paper reflected that Congressional intent was to have military deployed, temporarily or otherwise, be counted in the Census. A system that would count the personnel was identified but "because of a lack of funding and other constraints...the DOD cancelled its plans" and a decision was reached to count deployed persons at their home of record as the first option.¹

The Home of Record is completely unrelated to the definitions used in the Residency Rule for usual residence and that the application of the premise of using their usual residence is most accurate.

Secondary Effect

Because the deployed military member was counted at a home of record in 2010, their remaining family members who should have been counted in their shared usual residence (and where the military member will most likely return) were sometimes confused about their status. Many families declined to be counted locally because of the confusion. Some believed filling out the form would change their status in contradiction to the military member's status for other purposes. Many states allow military on active duty to remain a citizen of their state for tax purposes, without regard for their usual residence during this period.

Through the partnership with the US Census, our community's Complete Count Committee launched billboards and messages from trusted voices to encourage military families whose active member or members were being counted at their home of record to fill out the Census questionnaire indicating what was truly their usual residence in the community.

Routinely Marine troops are deployed as part of a Marine Expeditionary Unit. Primarily, these are US Navy ship-based and roam a specific theater frequently being given assignments based on world events. Assignments were normally six-months, but world conditions and circumstances drive the length of the deployment. Proud of the moniker as the "President's 9-1-1 force," other Marine units may deploy by other means to a theater based on world events or on standby. In each case, the units intend to perform their assignments and return back to the base from which they deployed.

Counting Marine troops aboard ships as being residents of the homeport of the ship does not represent their usual residence as the ship is merely a transport and platform on which they perform their duties. In most cases, the ships arrive at ports in North Carolina or off shore where they pick up the service members assigned to the deploying units.

"Rear Presence"

Marine units deployed frequently have a full-time presence at the base whether or not it is deployed. This is further evidence of the relative permanence of their base operations and more evidence that members of that unit should clearly be counted as part of the base host community where they come from; either in base housing or as living off base.

Even if the unit does not have a rear presence, the clear evidence of usual residence is that they validate their intention to return to the Marine bases because that is where their families live either on base or in the community. This demonstration of rear presence is demonstrated at the celebrations of returning deployed persons met by families who largely are residents of the community.

Suggestions for the 2020 Census

The City supports actions that would cause the administration of the services to present the count of troops as they are assigned for a duty station. For troops assigned a foreign base, they are part of the overseas population. For troops assigned a main on shore base, they should be counted there even if they are temporarily deployed. They clearly intend to return to the assigned base after their deployment, and believe that to be their usual residence.

We believe that each service should be challenged to prepare the count of deployed persons.

- For military persons living in a barracks, the count should reflect their assignment to that base and should be filled out by the military as part of the normal Quarters count.
- For military persons living with their families, the count should reflect their usual residence, whether it is on base or off base. Families with a deployed member should be encouraged to mark the temporally deployed persons as deployed and the base to which the member is assigned.

The City of Havelock is proud of our military members and wants to accurately count persons in our community.

¹ US Department of Commerce, Economics and Statistics Administration, Bureau of the Census, Karen M. Mills, Technical Paper 62, "Americans Overseas in U.S. Censuses" (portions are attached)

Resources and References

	<p>Census Publication Page 7 US Census 2010 Publication D-3277: A Guide for US Military Personnel</p> <p>US Census Special Population Programs Branch Communication Page 9 October 2009 Email Exchange with Special Population Programs Branch including guidance document from US Census. Portions of Technical Paper 62 are included in the responses from the Special Population Programs Branch.</p> <p>Reaction Letters Page 23 Collection of Letters including responses from US Census officials</p> <p>Reaction and Results Page 33 Some of the work of the Complete Count Committee and some results, graphics and discussion about Census counts</p>
c136	<p>Common Cause Georgia 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Making sure that census figures accurately reflect a county’s population ensures that officeholders are held accountable by citizens who actually live in their district. Even the perception of ‘prison gerrymandering’ erodes trust in the system, further exacerbating low voter turnout and political engagement. Ending it would perceptibly improve our democracy.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Butts County, Georgia, for example, residents in District 3 of the county are given twice as much influence over county affairs because 49% of their district is incarcerated.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universality implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. See The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on</p>

	<p>July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause Georgia believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c137	<p>I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day. I now live in Kentucky, which I’m sure has its fair share problems with prison gerrymandering, but I’m writing to draw your attention to the trouble that the Bureau’s prisoner miscount caused for us in Arizona, where I lived at the start of this decade. As I am sure you know, in 2010 the Bureau yet again counted anyone who happened to be in a prison or jail on Census day as if they were residents of that facility’s location. When it came time to redistrict, there was a lot of discussion about what to do about that. The Arizona Independent Redistricting Commission eventually decided to use the Bureau’s data, but at the same time to be mindful that incarcerated people were counted in the wrong place. So as the state redistricted, it kept in mind that the data they relied on included a large number of non-voting incarcerated people, and made sure to keep an eye on any potential electoral consequences. The Commission was particularly worried about how the data might misrepresent minority voting strength so they excluded prison populations when performing their Voting Rights Act analysis. Without keeping a close eye on the inaccuracies in the Bureau’s data, the voting strength of Arizona’s Tribal communities would have been particularly affected. Thank you for this opportunity to comment on the Residence Rule and Residence Situations. I urge you to count incarcerated people as residents of their home address, and hope that I don’t need to relive Arizona’s troubles in my new home state in 2020.</p>
c138	<p><i>This comment submission contains graphics and cannot be displayed in this table. It is available as Appendix Attachment c138.</i></p>
c139	<p>Common Cause New Mexico and the Central New Mexico Chapter of Progressive Democrats of America submit 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). Common Cause New Mexico urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Ensuring that redistricting is impartial and that legislative lines are drawn in a fair and transparent way is part of our core mission to promote civic engagement and accountability in government. So is ensuring that every eligible American’s vote is counted fairly. Counting incarcerated persons as residents of the district in which they are temporarily held has the effect of unfairly enhancing the political power of those who live and vote in the prison district while also unfairly diluting the votes of those in districts without prisons. Legislators with a prison in their district should not get a bonus for keeping the prison full. This dynamic hurts our democracy. And it hurts the communities from which these incarcerated persons hail.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the explosion in the prison population requires the Census to update its methodology again. A fair redistricting process not only involves complying with the federal law of “one person, one vote” but also with the federal Voting Rights Acts of 1965, which protects minority communities’ opportunities “to participate in the political process and to elect representatives of their choice.”</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p>

	<p>In New Mexico, the practice of prison-based gerrymandering distorts our districts. Two districts drawn after the 2000 Census include more than 1,000 incarcerated people as constituents. The actual residents of districts 8 and 62 are being granted about 4% more influence than the residents of each other district. On the local level, in the city of Hobbs, 21% of people in District 5, drawn after the 2000 Census, were incarcerated at the Lea County Correctional Facility. This means that every 79 residents in District 5 had as much political power as 100 residents in the other districts.¹</p> <p>Aztec City drew districts based on actual resident populations after the 2000 Census, rejecting prison-based gerrymandering. New prisons constructed in Cibola and Union counties over the last decade will require county officials to decide for the first time whether they will count incarcerated persons in the prison districts.² If the Census Bureau were to right an outdated mode of counting, then counties with new prisons would have proper guidance to follow.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) have taken a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>This ad hoc approach in a few states, counties, and municipalities is neither efficient nor universality implementable. If the Census Bureau would change its practice of counting incarcerated individuals at their home address rather than at the prison location, it would significantly alleviate the burden on state and local agencies and provide an efficient solution to greatly improve the fairness of apportionment and representation for millions of Americans. As you well know, states across the country look to the Census Bureau as the nation's foremost expert on national demographics and data, and more often than not count incarcerated persons the way the Bureau does. Once the Bureau leads the way with an update to a now outdated practice, states are sure to follow.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations; we appreciate the Bureau's aim to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause New Mexico and the Central New Mexico Chapter of Progressive Democrats of America believe in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their last-known home addresses.</p> <p>¹ See Prison Policy Initiative, Fixing Prison-Based Gerrymandering After the 2010 Census: New Mexico, (Jul. 15, 2015, 7:53 PM), http://www.prisonersofthecensus.org/50states/NM.html</p> <p>² Id.</p>
c140	<p>I serve as a Senator in the Georgia State Senate, representing District _____, and I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility where they happen to be located when the Census is taken.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the nation's population.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated</p>

	<p>people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Georgia, this results in decennial misallocation of constituents among state legislative districts. Additionally, about 35 of our counties, cities, and school boards have their districts skewed by the Bureau's 2010 prisoner miscount. The largest vote dilution is 36%.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts. In our state alone 16 counties, cities, and school boards each adjusted the census data to avoid skewing their districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state and local jurisdiction to have to adjust the Census' data to incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because our democracy relies on a population count that accurately represents communities, I urge you to count incarcerated people as resident of their home address.</p>
c141	<p>I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because I believe in a population count that accurately represents communities, I urge you to count incarcerated people as residents of their home address.</p>
c142	<p>Common Cause Illinois 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). Common Cause Illinois urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Common Cause Illinois is committed to ensuring that all individuals are given equal representation. If changes are not made to the existing process, incarcerated people will continue to incorrectly skew the results of the census, enhancing the political clout of people who live near prisons while diluting the overall voting power of all other Illinoisans.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p>

	<p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Illinois, this resulted in 11 House districts that derived 2 or more percent of their population from people incarcerated at correctional facilities located within the districts. There are also important racial considerations at play in the state, where African Americans are considerably overrepresented in Illinois prisons and jails. Across the state, African Americans make up 15% of the total population but account for 56% of the incarcerated population.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause Illinois believes in a population count that accurately represents communities, we <u>urge you to count incarcerated people as residents of their home address.</u></p>
c143	<p>I represent the _____ Senate District in New York State and submit this comment in response to the Census Bureau's federal register to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the nation's population.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>In 2010, New York State joined California, Delaware and Maryland to pass legislation to adjust the Census' population totals to count incarcerated people as residents of their original homes; and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p>

	<p>But this ad hoc approach is neither efficient nor universally implementable. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state to have to adjust the Census' data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because democracy relies on a population count that accurately represents communities, I urge you to count incarcerated people as residents of their home address.</p>
c144	<p>The Brennan Center for Justice at New York University School of Law submits this comment in response to the Census Bureau's federal register notice regarding the 2020 Decennial Census Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015). For the reasons set forth below, we respectfully ask the Census Bureau build on the changes it made in conjunction with the 2010 Census and update the usual residence rule for the 2020 Census so that all incarcerated persons are counted at their home address rather than the prison facility where they are located on Census Day.</p> <p>Founded in 1995 to honor the extraordinary contributions of Justice William J. Brennan, Jr., the Brennan Center is a not-for-profit, nonpartisan think tank and public interest law institute that seeks to improve systems of democracy and justice. Based on the findings of our research, we have long expressed concerns about the negative societal impact of counting prisoners where they are incarcerated and urged that they be enumerated at their pre-incarceration home addresses instead. In New York, we participated heavily in the drafting of a landmark law passed by the legislature in 2010 which required that the state's redistricting agency reallocate prisoners to their home communities for purposes of apportionment. We subsequently successfully defended the law from legal challenges.¹</p> <p>The high rate of mass incarceration in the United States continues to exacerbate the urgency of counting incarcerated people at their home address. The number of people incarcerated in state and federal prisons has dramatically risen from approximately 200,000 in 1970 to more than 1.5 million in 2013.² Although some states have begun to enact criminal justice reforms to reduce the high rate of incarceration, the likelihood is that a high number of people still will be imprisoned on Census Day in 2020.</p> <p>This high rate of incarceration creates a significant distortive effect when it comes to apportionment, particularly at the state legislative level. This is because most incarcerated persons are being held in facilities located far away from their home communities, often in rural communities. For example, ten years ago about 91% of people incarcerated in New York were held in upstate New York facilities despite the fact that 66% of the inmates were from New York City. This meant that communities in New York City were unrepresented in the state's legislature. Similar sorts of distortions are common across the United States. While New York's state legislature addressed the imbalance through legislation in 2010, many states continue to count inmates where prisons are located because they are not able for a variety of reasons to make adjustments on their own.</p> <p><i>Prisoners lack ties to the communities where they are incarcerated.</i></p> <p>As detailed in our 2004 report, <i>Accuracy Counts: Incarcerated People and the Census</i>, statistics, legal precedent, and historical context all make changing the way incarcerated persons are counted a matter of pressing public policy.³ In the forward to the report, Dr. Kenneth Prewitt, Director of the U.S. Bureau from 1998 to 2001, powerfully argued that, "Counting people in prison as residents of their home communities offers a more accurate picture of the size, demographics, and needs of our nation's communities." Dr. Prewitt went on to emphasize two themes that continue to be relevant today: "Incarcerated people have virtually no contact with the community surrounding the prison. Upon release the vast majority return to the community in which they lived prior to incarceration." A decade later, those concerns remain pressing.</p>

	<p>Counting incarcerated persons where they are imprisoned, as Dr. Prewitt said in his forward, "ignores the reality of prison life." Prisoners have only tenuous connection at best to the communities where prisons are located. They are unable to vote, utilize local parks, enroll in schools, or visit libraries in the communities where they are being held. They have no connection to civic life outside of the prison facility. By contrast, prisoners maintain much stronger ties to their home communities. In fact, the U.S. Department of Justice estimated in 1999 that 55% and 63% of state and federal prisoners, respectively, had children that were minors, a high percentage of whom reside in prisoners' home communities. It is not surprising then that the vast majority of the more than 680,000 persons released from prison each year return to the communities they resided in prior to their incarceration.</p> <p><i>Counting prisoners in their home communities would be more consistent with how prisoners are treated for other purposes</i></p> <p>Finally, considering incarcerated individuals as residents of the area where their prison facility is located is at odds with how most jurisdictions define the residency of prisoners. For instance, over 100 years ago, the New York Court of Appeals held in <i>New York v. Cady</i> (1894)⁴ that a prisoner's legal residence is where he or she chooses to live as opposed to where that person is incarcerated. Likewise, the Sixth Circuit in <i>Stifel v. Hopkins</i> (1973)⁵ determined that there is a rebuttable presumption that a person's residence prior to incarceration remains his or her residence unless that person intends to change it. Many states have similar residence rules that govern residency, venue in judicial proceedings, and voting.⁶ Changing the usual residence rule to be consistent with practice of the majority of states would bring the federal rule in line with what states have long recognized: prisoners are not part of the communities where prisons are located.</p> <p>Thank you again for the opportunity to comment on the 2020 Decennial Census Residence Rule and Residence Situations as the Census Bureau strives to count each person in his or her correct location. Because of the importance of a population count that accurately portrays communities throughout the United States, we ask that you update the usual residence rule to count incarcerated individuals as residents at their home addresses. We are happy to answer any questions.</p> <p>¹ <i>Little v. LATFOR</i>, No. 2310/2011 (N.Y. Sup. Ct., Albany Cnty Dec. 1, 2011).</p> <p>² E. ANN CARSON, U.S. DEPT. OF JUSTICE, BUREAU OF JUSTICE STATISTICS, PRISONERS IN 2013, <i>available at</i> http://www.bjs.gov/content/pub/pdf/p13.pdf.</p> <p>³ PATRICIA ALLARD AND KIRSTEN D. LEVINGSTON, BRENNAN CTR. FOR JUSTICE, ACCURACY COUNTS: INCARCERATED PEOPLE & THE CENSUS (2004), <i>available at</i> http://www.brennancenter.org/sites/default/files/legacy/d/RV4_AccuracyCounts.pdf.</p> <p>⁴ <i>New York v. Cady</i>, 143 N.Y. 100 (1894).</p> <p>⁵ <i>Stifel v. Hopkins</i>, 477 F.2d 1116, 1124 (6th Cir. 1973).</p> <p>⁶ PATRICIA ALLARD AND KIRSTEN D. LEVINGSTON, BRENNAN CTR. FOR JUSTICE, ACCURACY COUNTS: INCARCERATED PEOPLE & THE CENSUS 12 n.65-67 (2004), <i>available at</i> http://www.brennancenter.org/sites/default/files/legacy/d/RV4_AccuracyCounts.pdf.</p>
c145	<p>As _____ of the Delaware Housing Coalition, I am writing in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations.</p> <p>Our organization relies on population data that accurately represents communities. Each year, we publish/update two publications that depend on Census data and that housing organizations throughout the state depend on for data that they use in planning their programs and that helps them apply for funding: <i>Who Can Afford to Live in Delaware?</i>, a comprehensive report on housing affordability, and <i>Out of Reach</i> that focuses on rental data.</p>

	<p>We are very concerned about the Bureau’s practice of counting incarcerated individuals at the prison location since this skews population data. Most particularly, this undercounts male and African American Delawareans in our cities. I therefore urge you to count incarcerated people at their home address, rather than at the particular facility where they happen to be located on Census day.</p>
c146	<p><i>This comment submission contains graphics and cannot be displayed in this table. It is available as Appendix Attachment c146.</i></p>
c147	<p>This message is in response to the May 20, 2015 Federal Register Notice regarding the “2020 Decennial Census Residence Rule and Residence Situations” (https://federalregister.gov/a/2015-12118). As part of a state agency that utilizes Census Bureau data on a daily basis, I want to emphasize that the determination and communication of an easily-interpreted and logically consistent residence rule for each type of residence situation is essential for coherent and useful census tabulations. This includes communication from the Census Bureau on how respondents should interpret the often-used Residence Rule phrase “most of the time.”</p> <p>Along with easily-interpreted and logically consistent rules, consistent communication and application of the rules by residence type from place to place across the country is critical. To provide this, I think the Census Bureau must ensure (1) adequate and uniform training of 2020 Census field workers, along with readily available guidelines and contacts, <i>especially</i> to manage less common residence situations, and (2) clear communication of residence rules and guidelines to 2020 Census partners and respondents (the public) as part of 2020 Census <i>preparation</i>. A designated point-of-contact for residence determination may also be useful for Census Bureau staff, as well as 2020 Census partners and respondents.</p> <p>I also want to encourage the Census Bureau to provide 2020 Census summary file tabulations based on (2010 Census form question 10 or equivalent) “Does Person [X] sometimes live or stay somewhere else?” (including tabulations of the follow-up information from respondents who answer Yes). I have not heard discussion of this by Census Bureau staff before, but to help facilitate the best interpretation and use of decennial census data at the state and local level throughout the decade, I think it’s important that it be considered.</p> <p>Finally, I want to note that for any 2020 version of the 2010 Census Individual Census Report form (special form used for group quarters enumeration), Military Census Report form, or alternative forms used in enumeration, the Census Bureau should consider a question to the effect of “Do you sometimes live or stay somewhere else?” (including the follow-up information about that residence for respondents who answer Yes, equivalent to the regular 2010 Census form question 10). (For the 2010 Census, my record is that there was Individual Census Report question 7 “(If No) What is the full address of a place where you live or stay MOST OF THE TIME?” (I believe there was research on different versions of this question) but that was only for the subset of respondents who answered No to question 6 “Do you live or stay at this facility MOST OF THE TIME?” and, additionally, it didn’t provide the additional follow-up information about that other residence.)</p> <p>Please let me know if you have any questions or if any further information would be helpful, and thank you for all your work to ensure a successful 2020 Census.</p>
c148	<p>I am writing in response to your May 20 federal register notice regarding the Residence Rule and Residence Situations. I am a Professor of Sociology. I and my colleagues use Census data in a wide variety of ways to understand patterns of inequality in the United States. My own research has focused on identifying the causes and consequences of racial disparities in incarceration. As part of this research, I have discovered many cases in which the population characteristics of smaller rural counties have been extremely distorted by counting prisoners in the places where they are incarcerated. There would be a more accurate representation of the social characteristics of different places if people were counted where they resided at the time of their sentencing.</p> <p>As I do quantitative analysis, I took the time to dig a little more into available statistics provided by the Prison Policy Initiative on county-level counts of incarcerated and non-incarcerated persons by race for my state of Wisconsin. There are seven Wisconsin counties in which incarcerated people are 3.2%-6.4% of the county’s total enumerated population, a large enough fraction to distort local socioeconomic measures.</p>

	<p>Only five Wisconsin counties are more than 2% Black for their non-incarcerated populations. Due to the locations of prisons, in 10 of Wisconsin's 72 counties, a <i>majority</i> (in some cases over 80%) of the apparent Black "residents" of the county are incarcerated, in another 6 counties 25-50% of the apparent Black residents are incarcerated, and in another 7 between 10-25% of the apparent residents are incarcerated. These incarcerated "residents" are unlikely to have resided in that county before incarceration and their presence distorts local statistics.</p> <p>Although aggregate Census data do not permit identifying the home county of those incarcerated, using the criterion of counties whose non-incarcerated Black population is less than 2% and have a higher percentage of the state's Black prisoners than their percentage in the population, I estimate that at least 2.3% of the state of Wisconsin's total Black population (all ages, incarcerated and not) is attributed to "White" counties where they are imprisoned instead of to the place they resided before incarceration. This seems like a pretty large shift to me. As a citizen I am concerned about the undemocratic aspects of shifting representation from minorities and cities to predominantly-White rural areas.</p>
c149	<p>The undersigned members of the Massachusetts Coalition for Effective Public Safety (CEPS) submit 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). A number of CEPS members not listed here have already sent letters to the Bureau on behalf of their respective organizations. We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>CEPS is a coalition of advocates, program providers, parolees, formerly incarcerated men and women, friends and relatives of prisoners, and human rights activists who have joined forces to promote and safeguard the human rights of all people across the Commonwealth of Massachusetts and focus on parole, solitary confinement and medical release reform.</p> <p>We are, therefore, particularly troubled by the Census Bureau's interpretation of the residence rule to count incarcerated people as if they were residents of the prison locations rather than residents of their communities. When this data is used for redistricting it results in prison gerrymandering; prisons inflate the political power of those people who live near them. This misallocation of constituents shifts political priorities, delaying justice for our communities.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census and for our democracy.</p> <p>And while some states have been able to address the prison gerrymandering problem to some extent on their own, our legislature ran into a complication with the state constitution, and so passed a resolution calling on the Bureau to solve the problem instead.</p> <p>We echo our legislators' call and urge you to count incarcerated people at home.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities.</p>
c150	<p>I am writing in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015), to urge you to count incarcerated people at their home address.</p> <p>I am a _____ of the David J. Epstein Program in Public Interest Law and Policy at UCLA School of Law. Prior to joining</p>

UCLA I was the _____ for the Campaign for Youth Justice, a national nonprofit devoted to removing youth from the adult criminal justice system. My research focus is on the dangers of incarceration for youth and its impact on families and communities of color.

Although I am not a demographer, I can clearly see the practical results of the Bureau's decision to count incarcerated people as if they resided at the particular facility that they happen to be located at on Census day. When the Bureau's data is used for redistricting, it inflates the political power of people who live near prisons. The result of this arrangement is compounding policy choices that are against the best interests of the communities most impacted by incarceration

And while I am proud that California is one of the states leading the way to ameliorate the skewing effects of the Bureau's miscount, I wish that it were not necessary. In 2011 California was the fourth state in the country to pass a law to adjust Census data for state-wide redistricting. The new law will take effect for the 2020 round of redistricting and requires the Department of Corrections to report the home addresses of incarcerated people to the Citizens Redistricting Commission so that the Commission may count incarcerated people at home for redistricting purposes.

Even before the state took action, virtually all California counties with large prisons took it upon themselves to avoid prison gerrymandering within their own governments. These include Amador, Del Norte, Imperial, Kern, Kings, Lassen, Madera, Monterey, San Luis Obispo, and Tuolumne counties. Madera County actually went as far as to pass a resolution explaining why they could not use the Bureau's data as-is for redistricting (the resolution is attached).

Therefore it may at first glance appear that my state has the prison gerrymandering problem solved, but even we would greatly benefit from the Bureau updating its methodology to count incarcerated people at home. For example, our redistricting commission is independent of the legislature, so even if the state adjusts the Bureau's data to count incarcerated people at home, there is a chance that the commission might default to the Census data published by the Bureau. And taking a bigger picture view, it makes little sense for each state or county government across the country to have to make these necessary adjustments on their own.

Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place. I believe that a strong democracy and fair criminal justice policy depend on a population count that accurately represents all communities, so I urge you to count incarcerated people as residents of their home address.

BEFORE
THE BOARD OF SUPERVISORS
OF THE COUNTY OF MADERA
STATE OF CALIFORNIA

In the Matter of
BOARD OF SUPERVISORS

Resolution No.: 2011 - 100
A RESOLUTION REGARDING PRISON
POPULATIONS AND SUPERVISORIAL
DISTRICTS

	<p>WHEREAS, the U.S. Census currently counts incarcerated people as residents of their place of incarceration; and</p> <p>WHEREAS, the Constitution of the State of California, Article II Section 4, states "The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony."; and</p> <p>WHEREAS, almost all of the people incarcerated at the correctional facilities located within the borders of our County are not residents of our County; and</p> <p>WHEREAS, these incarcerated persons do not become residents of the County when they are incarcerated, since they are here involuntarily and can be relocated by the state Department of Corrections and Rehabilitation; and</p> <p>WHEREAS, persons incarcerated in state and federal correctional institutions live in a separate environment, do not vote or otherwise participate in the life of Madera County, cannot build enduring ties in Madera County, and do not individually affect the social and economic character of the towns in which the correctional facilities are located; and</p> <p>WHEREAS, although these individuals are counted by the U.S. Census as if they were residents of our County, in the past the County has not used these Census counts to draw legislative districts; and</p> <p>WHEREAS, when the County uses prison populations to draw legislative districts, it gives extra influence to the districts that contain the prisons. For example, the two prisons in District 2 house approximately 7,000 inmates. Dividing the total county wide population of 150,865 by the five Supervisorial districts allows for a population of 30,173 per district. Seven thousand out of that 30,173 are inmates, or 23 percent of the population of District 2. This leaves each group of 77 people in District 2 as much say over county issues as 100 people in the other four districts; and</p> <p>WHEREAS, this prison-based gerrymandering contradicts the basic principles of equal representation embraced by the State of California and federal Constitutions; and</p> <p>WHEREAS, the counties of Amador, Del Norte, Imperial, Kern, Kings, Lassen, Monterey, San Luis Obispo, and Tuolumne, as well as more than 100 counties across the United States avoid the problem of prison-based gerrymandering by ignoring the prison populations when drawing legislative districts; and</p> <p>NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Madera, State of California, that the Board will remove the prison populations from the redistricting data used to draw County legislative districts.</p> <p>The foregoing Resolution was adopted this <u>24th</u> day of <u>May</u>, 2011, by the following vote:</p>
c151	<p>United Congress of Community and Religious Organizations (UCCRO) is writing in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>UCCRO is a coalition of seven community-based organizations covering communities in the Chicagoland area that's been working on the issue of prison gerrymandering for over 4 years. These communities which are largely African American and Hispanic account for about 20 percent of statewide prisoners statewide, and nearly half of city of Chicago prisoners in the state. Though these prisoners are released to the communities of their legal address the vast majority are counted in the prison districts where they are incarcerated, giving those prison districts additional representation because of the inflated count. Prison gerrymandering is bad for democracy and is a practice that needs to be corrected to reflect the true demographics of the all of the communities impacted. Illinois law says that a prison cell is not a residence.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p>

	<p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <ul style="list-style-type: none"> • By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Illinois, this resulted in about 56 percent of the prison population being black. In Illinois blacks are incarcerated nearly ten times the rate of whites. Yet there are counties that receive counties that receive an unfair advantage in political power. One county for example is Lee County that counts 25% of its population from a federal; prison, thereby giving every group of 75 people the political clout of 100 people in surrounding districts. <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census’ population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universality implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>United Congress of Community and Religious Organizations call upon the Census Bureau to change its practice as well.</p> <p>We appreciate this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because UCCRO believes in a population count that accurately represents communities, we <u>urge you to count incarcerated people as residents of their home address.</u></p>
c152	<p>The Southern Center for Human Rights (SCHR) 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). SCHR urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>The Southern Center for Human Rights (SCHR) is a non profit law firm based in Atlanta, Georgia, that dedicated to providing legal representation to people facing the death penalty, challenging human rights violations in prisons and jails, seeking through litigation and advocacy to improve legal representation for poor people accused of crimes, and advocating for criminal justice reform on behalf of those affected by the system in the Southern United States.</p> <p>In the course of carrying out our work, it has become increasingly clear that it is imperative to end prison gerrymandering so that we may ensure equal representation throughout Georgia. SCHR urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Georgia has a relatively high incarceration rate, currently locking up more than one person for each group of 200 people. But many of the state's prisons are located in sparsely populated areas, resulting in a significant distortion in how the Census portrays these communities. In ten Georgia counties, more than 10% of the county's Census population is incarcerated. Twenty percent of Calhoun County is incarcerated.</p>

	<p>These are not the most punitive counties in the state, they just happen to be the places where the prisons are located.</p> <p>Nine Georgia House Districts drawn after the 2000 Census derived more than 5% of their required population from incarcerated, disenfranchised people. One district was almost 11% incarcerated, giving every 89 people who live in that district with the prison as much influence as 100 people who live in another other district in the state that does not contain a large prison.</p> <p>There are significant political differences between the places that most incarcerated individuals come from and the places where they are incarcerated. An analysis by the state Department of Corrections found more Georgia prison inmates come from Atlanta zip code 30318 than any other of the state's 965 ZIP codes. Atlanta as a whole is city that strongly votes with the Democratic Party, yet due to prison gerrymandering, residents of conservative Butts County (Georgia District 3) were given twice as much influence over county affairs as residents of other districts because 49% of District 3 was incarcerated at the Georgia Diagnostic and Classification Center.</p> <p>Either the Census Bureau needs to change how it counts prisoners, or states like Georgia need to find their own ways to count their population prior to redrawing district boundary lines. Otherwise, the geographic and racial disparities in our criminal justice system will continue to spill over into our electoral system.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because SCHR believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c153	<p>The Fortune Society (Fortune) 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). Fortune urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because The Fortune Society believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p> <p>Please do not hesitate to contact me by email at _____ or by phone at _____, if you have any questions regarding this letter.</p>
c154	<p>In 2010, the U.S. Census Bureau counted deployed service members as part of the population of their home of record. During this time, there were approximately 10,000 service members stationed at Fort Campbell who were deployed from the installation at the time of the census. Furthermore, over 250,000 United States military personnel were temporarily deployed overseas in support of contingency operations, or for other short-term missions. Home of record is generally defined as the permanent home at the time of entry or re-enlistment into the Armed Forces as included in personnel files; when a deployment ends, soldiers return to their home base--not their original home town or home of record.</p> <p>This once a decade head count sets a baseline population upon which annual estimates are based for the next ten years. Many federal and state assistance programs use formulas based on the decennial census or derivatives from the decennial census data. With the current methodology, the communities in which these service members reside prior to deployment are deprived of potentially large sums of federal and state funding.</p>

	<p>By using the last duty station to count deployed service members the 2020 Census data will depict a more accurate representation of where the deployed service members live prior to deployment and in return allow the communities where these service members live access to more funding to provide services and programs for the military members and their dependents during the following ten year period.</p> <p>Thank you for consideration of this request.</p>
c155	<p>In response to the Federal Census Bureau 's Register Notice regarding the Residence Rules and Residence Situation 8 FR 28950 (5/20/2015), New Jersey Association on Correction hereby advises the following comment; New Jersey Association on Correction urges you to count those incarcerated as residents of their home address rather than then the address of the particular facility they happen to be located in on Census Day.</p> <p>In the 2010 Census, prison cells were designated as residences which therefore determined a disproportionate population of males both African American and Latino. 5,393 census blocks were located far from the actual homes of the incarcerated population. When this data is used for redistricting, prisons inflate the political power of those who live near them.</p> <p>Thank you for the opportunity to comment on the Bureau's efforts to count everyone in the right place. New Jersey Association on Correction believes in a population count that is accurate.</p> <p>Thank you for your consideration.</p>
c156	<p>Arkansas Voices for the Children Left Behind 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be imprisoned at on Census day.</p> <p>Arkansas Voices for the Children Left Behind advocates for the children of incarcerated parents and, therefore, we are very concerned about ensuring equal representation for the home communities of these children.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>I frequently visit Arkansas prisons and have observed a few similarities between the different prisons in the state. First, the prisons are located far away from the home communities of incarcerated people. It often takes a significant amount of time and expense for children to visit their incarcerated parents, straining incredibly important relationships. Second, the prisons are located in parts of the state with vastly different demographics than the home communities of incarcerated people. Nationally, by designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people.</p> <p>Because Arkansas is not one of the four states that have found a statewide solution to counting incarcerated people at home, particular</p>

	<p>Arkansas counties are underrepresented politically because the state's prison population comes disproportionately from some counties such as Sebastian County (home for 4.3% of the state but 8.3% of its incarcerated people) and Crittenden County (home for 1.8% of the state, but 3.9% of its incarcerated people). Further, since Blacks are overrepresented in Arkansas prisons and jails, they are going to bear the brunt of prison gerrymandering. Blacks are incarcerated four times more than Whites in Arkansas.</p> <p>In addition to the handful of states that have ended prison gerrymandering, there are over 200 counties and municipalities that have individually adjusted their population data to avoid prison gerrymandering, but this ad hoc approach is not always possible. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations. Arkansas Voices for the Children Left Behind previously called upon the Census Bureau to change its practice back in February 2013, and we are glad to see that the Bureau is taking a step forward to count everyone in the right and most accurate place. Because Arkansas Voices for Children Left Behind believes in a population count that accurately represents communities — especially those hardest hit by incarceration — we urge you to count incarcerated people as residents of their home address.</p>
c157	<p>Justice For Families (J4F) 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). Our organization and members urge you to count those that are incarcerated at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>J4F is a national organization that was created by families, for families that have been impacted by the criminal justice system and incarceration. We have nearly 3000 families in 38 states and the District of Columbia. As families that remain behind when our loved ones are incarcerated, we understand and live with the consequences of unequal representation in the Census data. The majority of our families live in poor communities of color that have little to no say in their local and state government, thus making an already vulnerable community even more vulnerable. Our families' experiences have proven time and again that the best solutions to community problems come from the impacted community. When the community is denied accurate representation in the Census data, their solutions and voices go unheard while the voices of those who have no stake and little understanding of the community are given greater value and power.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the nation's incarcerated population has more than quadrupled to over two million people. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Illinois, for example, 60% of incarcerated people have their home residences in Cook County (Chicago), yet the Bureau counted 99% of them as if they resided outside Cook County.</p>

	<p>When this data is used for redistricting, prisons artificially inflate the political power of the areas where the prisons are located. In New York after the 2000 Census, for example, seven state senate districts only met population requirements because the Census counted incarcerated people as if they were upstate residents. For this reason, New York State passed legislation to adjust the population data after the 2010 Census to count incarcerated people at home for redistricting purposes.</p> <p>New York State is not the only jurisdiction taking action. Three other states (California, Delaware, and Maryland) are taking a similar state-wide approach, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because J4F believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c158	<p>As the ____ and ____ of AmericanTribune.org, please count our voice in favor of counting prisoners at their home addresses.</p> <p>As a former prisoner myself, I'm aware that every prisoner has his/her home address listed in their personnel files.</p> <p>Prisons, prison staff and the respective communities in which they may be temporally housed all expect that prisoners will return to their own respective communities. The courts and parole/probation departments expect and anticipate that eventuality. If the prisoner should change his/her "home address," then that is vetted and approved by this latter authority and their new home residence so listed.</p> <p>As a rule, most if not all "prison communities" have passed local ordinances that REQUIRE prisoners, not already members of those respective communities, <u>to vacate the area within a certain time period upon release</u> (usually 2-hrs-or-so) under penalty of law.</p> <p>Prisoners are routinely advised of this ordinance by prison staff and given a certain minimal stipend and a bus ticket to accomplish that purpose. They are usually not simply released directly from their respective institution, but are driven to such transportation within a certain time constraint to effect their passage from the community. Home/friend pick-ups from the institution is discouraged if not prohibited.</p> <p>As with college students and others, it only makes accurate and reasonable sense to count prisoners from their listed home commitment/address for any proper home census to be accurate.</p> <p>Thank you for this opportunity to speak to this issue.</p>
c159	<p>Ex-Prisoners and Prisoners Organizing for Community Advancement (EPOCA) 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). We urge you to count incarcerated people in their home districts, rather than in districts where they are temporarily incarcerated, and are often barred by state law from voting.</p> <p>We are ex-prisoners and current prisoners, along with allies, friends and family, working together to create resources and opportunities for those who have paid their debt to society. We believe that social change can only be led by the people who most need the change. Therefore, those of us who have the least advantage, the least power within the traditional system, have to work together to change the situation ourselves. And as such we are particularly impacted and troubled by the Census Bureau's interpretation of the residence rule. Counting incarcerated people as if they were residents of the prison locations rather than residents of their communities hurts our democracy and further disempowers our communities.</p>

	<p>EPOCA believes that a population count that accurately represents communities is a prerequisite to equal representation, and so we urge you to count incarcerated people as residents of their home addresses.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>In Massachusetts, there are currently four districts that meet federal minimum population requirements only because the Bureau counted correctional facilities' populations as if the people incarcerated there were actual residents of those districts. So the 8th Plymouth, 37th Middlesex, 7th Middlesex, and 12th Worcester districts each have actual resident populations that are 5.6% to 7.4% smaller than the ideal district size.</p> <p>While some states have been able to address the problem to some extent on their own, our legislature ran into a complication with the state constitution, and so passed a resolution calling on the Bureau to solve the problem instead.</p> <p>We echo their call and urge you to count incarcerated people at home.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities.</p>
c160	<p>I represent the _____ district of _____ and submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they are located at on Census day.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the nation's population.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, which has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology once again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Massachusetts, law already states that a prison cell is not a residence. The city of Gardner had to choose in 2001 whether or not to give residents who lived in a close proximity to the state prison extra impact on city affairs or deny the inaccurate Census counts. The source of this information can be located at http://www.prisonersofthecensus.org/50states/, along with examples from other states affected by prison gerrymandering.</p>

	<p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust to the Census' population totals to count incarcerated people at home. Over 200 counties and municipalities all individually have to adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universality implementable. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state to have to adjust the Census' data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because democracy relies on a population count that accurately represents communities, I encourage you to count incarcerated people as residents of their home address.</p>
c161	<p>We write to submit our comments in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015). We urge the Census Bureau to count incarcerated people at their permanent home of record address rather than at their place of incarceration for the 2020 Decennial Census.</p> <p>During the last redistricting cycle, the Special Joint Committee on Redistricting received a tremendous amount of testimony and advice on the issue of group quarters and the counting of prisoners at their last place of residence rather than where they are incarcerated. It was pointed out to the Committee that prisons are frequently located in areas geographically and demographically removed from the home communities of incarcerated persons. By counting prisoners at their place of incarceration, rather than the legal address of the person prior to incarceration, the relative strength of votes by residents in that district are inflated at the expense of voters in all other districts in the Commonwealth. The Massachusetts legislature, acting on this testimony and a recommendation by the Committee, sent to the Director of the Census Bureau on August 14, 2014 a resolution urging that the next Census "counts incarcerated persons at their residential address rather than the address of the correctional institution where they are temporarily located".</p> <p>The U.S. Census continued use of the "usual place of residence" rather than a "legal residence" when counting prison populations means individual states and localities are required to produce their own methodologies for counting prisoners. Currently, California, Delaware, Maryland, and New York take a state-wide approach to adjust the Census' population totals to count incarcerated people at home address. As you may know, the approaches used by Maryland and New York were challenged in court. Other states may face issues such as we do in Massachusetts where the state Constitution dictates that the federal census be the basis for determining our representative, senatorial, and councillor districts. The question becomes how the counting of prisoners can be handled in the future? We believe that the likelihood of continued uncertainty on the appropriate enumeration of prisoners may result in further litigation on this matter as long as states unilaterally attempt to tailor U.S. Census figures to meet local needs. The most expedient and streamlined avenue for changing the method for counting prison populations lies with the Census Bureau changing their prisoner residence rule procedure. This would provide a systematic and consistent tabulation approach for calculating Congressional re-apportionment and one that is uniform for redistricting in all 50 states. Such a change on the federal level will rectify the perceived inequalities in counting prisoners and eliminate costly litigation for states to defend redistricting plans based on adjusting local prison populations.</p> <p>Accordingly, we urge you to change Census Bureau policy to count incarcerated people as residents of their home address, rather than at the place of their incarceration.</p> <p style="text-align: center;"><i>The Massachusetts General Court Resolutions</i></p>

**URGING THE CENSUS BUREAU TO PROVIDE REDISTRICTING DATA THAT COUNTS PRISONERS
IN A MANNER CONSISTENT WITH THE PRINCIPLES OF "ONE PERSON, ONE VOTE".**

WHEREAS, OBTAINING AN ACCURATE COUNT OF THE POPULATION IS SO VITAL TO REPRESENTATIVE DEMOCRACY THAT THE FRAMERS OF THE UNITED STATES CONSTITUTION ADDRESS THE ISSUE OF THE CENSUS AND APPORTIONMENT IN THE OPENING PARAGRAPHS OF THE CONSTITUTION; AND

WHEREAS, THE MASSACHUSETTS CONSTITUTION REQUIRES THAT FEDERAL CENSUS DATA BE THE BASIS FOR STATE REDISTRICTING; AND

WHEREAS, THE CENSUS BUREAU CURRENTLY HAS A POLICY OF COUNTING INCARCERATED PEOPLE AT THE ADDRESS OF THE CORRECTIONAL INSTITUTION, EVEN THOUGH FOR OTHER LEGAL PURPOSES THEIR HOME ADDRESS REMAINS THEIR LEGAL RESIDENCE; AND

WHEREAS, THIS CENSUS DATA RESULTS IN DISTORTIONS OF THE ONE-PERSON, ONE-VOTE PRINCIPLE IN DRAWING ELECTORAL DISTRICTS IN MASSACHUSETTS, DILUTING THE REPRESENTATION OF THE MAJORITY OF DISTRICTS THAT DO NOT CONTAIN PRISONS; AND

WHEREAS, THE SIMPLEST SOLUTION TO THE CONFLICT BETWEEN FEDERAL CONSTITUTIONAL REQUIREMENTS OF "ONE PERSON, ONE VOTE" AND MASSACHUSETTS CONSTITUTIONAL REQUIREMENTS OF USING THE FEDERAL CENSUS IS FOR THE CENSUS BUREAU TO PUBLISH REDISTRICTING DATA BASED ON THE LOCATION OF AN INCARCERATED PERSON'S RESIDENCE, NOT PRISON LOCATION; AND

WHEREAS, THE CENSUS BUREAU HAS ALREADY RECOGNIZED THE DEMAND FROM STATES AND COUNTIES FOR DATA THAT BETTER REFLECTS THEIR ACTUAL POPULATIONS, AND HAS AGREED TO RELEASE DATA ON PRISON POPULATIONS TO STATES IN TIME FOR REDISTRICTING, ENABLING SOME STATES TO INDIVIDUALLY ADJUST THE POPULATION DATA USED FOR REDISTRICTING; AND

WHEREAS, PUBLIC LAW 94-171 REQUIRES THE CENSUS BUREAU TO WORK WITH STATES TO PROVIDE GEOGRAPHICALLY RELEVANT DATA AND THE CENSUS BUREAU HAS BEEN RESPONSIVE TO STATE'S DATA NEEDS FOR THE PAST 3 DECADES; NOW THEREFORE BE IT

RESOLVED, THAT THE MASSACHUSETTS GENERAL COURT HEREBY URGES THE CENSUS BUREAU, IN THE NEXT CENSUS AND THEREAFTER, TO PROVIDE STATES WITH REDISTRICTING DATA THAT COUNTS INCARCERATED PERSONS AT THEIR RESIDENTIAL ADDRESS, RATHER THAN THE ADDRESS OF THE CORRECTIONAL INSTITUTION WHERE THEY ARE TEMPORARILY LOCATED; AND BE IT FURTHER

RESOLVED, THAT A COPY OF THESE RESOLUTIONS BE TRANSMITTED FORTHWITH BY THE CLERK OF THE SENATE TO THE DIRECTOR OF THE CENSUS BUREAU.

c162

I am writing in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015). I urge you and your colleagues at Census to count incarcerated people at their home address, rather than at the particular facility in which they happen to be located on Census day.

I am a Professor of Law at the University of Michigan Law School, and my work focuses on criminal law and criminal justice policy. I am also an empirical economist. I use data in my work, and I know how important data can be, both in arriving at truth and in helping us understand the world. It also affects the world, as you well know. Counting incarcerated people in the wrong place inflates the

	<p>political power of people who live near prisons, when those counts are used for redistricting or other purposes. As you can imagine, this practice has serious repercussions for state legislative decisions that impact incarceration, but also it can have a huge impact on representational equality in the small communities that host the facilities.</p> <p>I'm pleased to note that Michigan has been at the forefront of how to deal with such population quirks. In our state, cities and counties are required to adjust their redistricting data to exclude people in state institutions who are not residents of the county or city where the facility is located. (Mich. Comp. Laws Ann. §§ 117.27a(1)(5) and 46.404(g), respectively.) Essentially, localities are forbidden from engaging what is now commonly termed "prison gerrymandering" (though these statutes date back to the 1960s). At the same time, the state clearly views Census data as generally the best data to use for redistricting; the same statutes identify the "latest official published figures of the United States official census" as the default source of data, but then creates an exemption for cases where the Bureau's data falls short of Michigan's standards of accuracy (such as counting incarcerated people in the wrong place).</p> <p>I believe that a strong democracy and fair criminal justice policy depend on a population count that accurately represents all communities. Accordingly, I urge you to count incarcerated people as residents in the jurisdiction of their home address. Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place.</p>
c163	<p>I am writing concerning Federal Register Notice [Docket Number 150409353-5353.01] requesting comments regarding the 2020 Decennial Census Residence Rule and Residence Situations.</p> <p>I wish to begin by saying that these residence rules, developed through the Bureau's extensive experience through many decennial censuses, should remain as they are stated in the above referenced notice.</p> <p>I am particularly concerned about proposals to adjust group quarters residence rules for those incarcerated in prisons. The primary rule governing decennial census counts is that the enumeration should represent a "snapshot" of where persons are residing on Census Day, not where they formerly resided.</p> <p>Such adjustments will only open the door to further manipulation of the census counts to suit the sociological and political goals of persons proposing such rule changes.</p> <p>Furthermore, these changes could embroil the Bureau in political conflicts and decrease the confidence of the American public in the neutrality of the decennial census process. It could also decrease the participation rate in the enumeration.</p> <p>The Decennial Census process is becoming increasing difficult and expensive to administer. Prison adjustment is a very complex process and will only add to the expense and timely completion of the enumeration. The Bureau should concentrate its resources on a full and accurate count, and avoid such complex diversions.</p> <p>Initiating such an arbitrary and expenses modification to the census residence rules could also endanger the Bureau's appropriations, If the Bureau has money for doing prison adjustment, maybe they need less funding.</p> <p>It is also possible that these adjustments could alter the numbers determining the reapportionment of the seats of the U. S. House among the States, bring on unnecessary litigation.</p> <p>The experience of the three states which engaged in prison adjustment following the 2010 Decennial Census process (New York, Maryland and Delaware) demonstrated that the procedures used yielded questionable results and, in some cases allocating inmate counts to general,</p>

	<p>rather that specific locations due to lack of sufficient information.</p> <p>It is also notable that the three states which engaged in prison adjustment in 2011 are Democrat-controlled states, and this adjustment would not have been done were it not advantageous to the party in power. Once again, the Bureau should not act as an agent for increasing partisan advantage.</p> <p>There is also a lack of thorough nationwide studies by neutral entities which analyze the affect of prison adjustment on the redistricting process in all of the different States. It is possible that these adjustments could adversely affect the redistricting process for minority districts. Particularly in rural areas were minority districts may be drawn.</p> <p>Another issue is that if group quarters residence rules are modified to remove individual counts from the group quarters for prisoner enumeration to disperse these counts throughout each state, then why not perform the same adjustments on other group quarters, such as college dorms and nursing homes.</p> <p>Also, the Bureau will have to deal with the issue that adjustment of individual counts for group quarter, from where they resided on Census Day to their former residence, may involve moving these counts to other states.</p> <p>Because of the expense and complexity of initiating this process on a nationwide basis, I believe such adjustments should be left up to the individual states, and not be imposed by the Federal Government.</p> <p>For these reasons, I oppose changes to the residence rules stated in the Federal Register notice, and urge the Bureau to readopt the previous rules.</p>
c164	<p>I am writing concerning Federal Register Notice [Docket Number 150409353-5353-01] requesting comments regarding the 2020 Decennial Census Residence Rule and Residence Situations.</p> <p>I believe such adjustments should be left up to the individual states, and not be imposed by the Federal Government. I adamantly oppose changes to the residence rules stated in the Federal Register notice. Please urge the Bureau to re-adopt the previous rules.</p>
c165	<p>I serve as a Representative in the _____ Legislature, representing residents of _____, which includes a large incarcerated population in a county House of Correction, and I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the nation's population.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p>

	<p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people.</p> <p>This problem is hardly limited to our state; and currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. In Massachusetts, for example, we concluded that the state constitution did not allow us to pass similar legislation, so we sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>And even if we could solve the problem ourselves, it makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state to have to adjust the Census' data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because democracy relies on a population count that accurately represents communities, I urge you to count incarcerated people as residents of their home address.</p>
c166	<p>I represent the _____ District, _____ and I submit this comment in response to the Census Bureau's federal register notice regarding the Resident Rule and Residence Situations, 80 FR 28950 (May 20, 2015). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>As an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the nation's population. In Massachusetts incarcerated individuals who are allowed to vote are required to vote by absentee ballot, thus have never been allowed to vote in the town or city where the incarcerated individual is housed. Many of these municipalities' already received special tax privileges; they should not also, receive special political favors by the federal government through the Census Bureau.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S totaled less than half a million. But since then, the number of incarcerated people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a resident in the 2010 Census, the Census Bureau concentrated a population that is disproportionately males, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people.</p> <p>Impacts at the state level include but are not limited to the following:</p> <ul style="list-style-type: none"> • Without using prison populations as padding, 5 Massachusetts House districts drawn after the 2000 Census did not meet constitutional population requirements.

	<ul style="list-style-type: none"> For example, each House district in Massachusetts should have had 39,682 residents. The 3rd Suffolk District, which claimed the population of the Suffolk County House of Corrections, however, had only 36,428 actual residents. This means that the actual population of the district was 8.2% smaller than the average district in the state. Crediting all of Massachusetts' incarcerated people to a few locations, far from home, enhances the political clout of the people who live near prisons, while diluting voting power of all other Bay Staters. <p>Impacts at the local level include but are not limited to the following:</p> <ul style="list-style-type: none"> Some cities grapple with the Census Bureau prison counts that threaten to distort voting rights. Cities, for example, must also draw city council districts based on population. But because these council districts are so much smaller than state legislative districts, a single large prison can have a huge effect. <p>Currently, four states (California, Delaware, Maryland, New York) are taking a state-wide approach to adjust the Census' population totals that is to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universality implementable. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state to have to adjust the Census' data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Democracy relies on a population count that accurately represents communities, I urge you to count incarcerated people as residents of their home address.</p> <p>I would like to thank you in advance for your kind consideration on this matter.</p>
c167	<p>I am writing concerning Federal Register Notice [Docket Number 150409353-5353-01] requesting comments regarding the 2020 Decennial Census Residence Rule and Residence Situations.</p> <p>I wish to begin by saying that these residence rules, developed through the Bureau's extensive experience through many decennial censuses, should remain as they are stated in the above referenced notice.</p> <p>I am particularly concerned about proposals to adjust group quarters residence rules for those incarcerated in prisons. The primary rule governing decennial census counts is that the enumeration should represent a "snapshot" of where persons are residing on Census Day, not where they formerly resided.</p> <p>Such adjustments will only open the door to further manipulation of the census counts to suit the sociological and political goals of persons proposing such rule changes.</p> <p>Furthermore, these changes could embroil the Bureau in political conflicts and decrease the confidence of the American public in the neutrality of the decennial census process. It could also decrease the participation rate in the enumeration.</p>

	<p>The Decennial Census process is becoming increasingly difficult and expensive to administer. Prison adjustment is a very complex process and will only add to the expense and timely completion of the enumeration. The Bureau should concentrate its resources on a full and accurate count, and avoid such complex diversions.</p> <p>Initiating such an arbitrary and expensive modification to the census residence rules could also endanger the Bureau's appropriations. If the Bureau has money for doing prison adjustment, maybe they need less funding.</p> <p>It is also possible that these adjustments could alter the numbers determining the reapportionment of the seats of the U. S. House among the States, bring on unnecessary litigation.</p> <p>The experience of the three states which engaged in prison adjustment following the 2010 Decennial Census process (New York, Maryland and Delaware) demonstrated that the procedures used yielded questionable results and, in some cases allocating inmate counts to general, rather than specific locations due to lack of sufficient information.</p> <p>It is also notable that the three states which engaged in prison adjustment in 2011 are Democrat-controlled states, and this adjustment would not have been done were it not advantageous to the party in power. Once again, the Bureau should not act as an agent for increasing partisan advantage.</p> <p>There is also a lack of thorough nationwide studies by neutral entities which analyze the effect of prison adjustment on the redistricting process in all of the different States. It is possible that these adjustments could adversely affect the redistricting process for minority districts. Particularly in rural areas where minority districts may be drawn.</p> <p>Another issue is that if group quarters residence rules are modified to remove individual counts from the group quarters for prisoner enumeration to disperse these counts throughout each state, then why not perform the same adjustments on other group quarters, such as college dorms and nursing homes.</p> <p>Also, the Bureau will have to deal with the issue that adjustment of individual counts for group quarters, from where they resided on Census Day to their former residence, may involve moving these counts to other states.</p> <p>Because of the expense and complexity of initiating this process on a nationwide basis, I believe such adjustments should be left up to the individual states, and not be imposed by the Federal Government.</p> <p>For these reasons, I oppose changes to the residence rules stated in the Federal Register notice, and urge the Bureau to readopt the previous rules.</p>
c168	<p>Democracy North Carolina 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>We are interested in ending prison gerrymandering because our mission is to achieve a government that is truly of the people, by the people, and for the people. By violating the constitutional principle of "one person, one vote," prison gerrymandering stands in the way of our mission.</p> <p>As you know, American demographics and living situations have changed dramatically in the 225 years since the first Census, and the</p>

	<p>Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census and for the political representation of residents of urban areas of North Carolina.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In North Carolina, after the 2000 Census, seven residents of Anson County's District 6 — where a prison is located — had as much influence as <i>ten</i> residents of any of Anson County's other districts. Anson County did not redistrict after the 2010 Census so this problem still persists.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state- wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is inefficient. For example, even though North Carolina state law says a prison cell is not a residence, that policy is not integrated into redistricting decisions at the state or local level. Public officials in Caswell County and Columbus County, two rural counties with significant prison populations, had to take extra steps to specifically avoid prison gerrymandering.</p> <p>Along with other organizations, we previously called upon the Census Bureau to change its practice of counting incarcerated people in February 2013, and we once again urge you to count incarcerated people as residents of their home address.</p> <p>We thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities.</p>
c169	<p>Neighbor to Neighbor 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). We urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Neighbor to Neighbor is a membership organization comprised of low-income, working class, and people of color. We are dedicated to achieving economic and environmental justice. We build the power of our members through issue and electoral organizing. We operate chapters in Lynn, Worcester, Springfield and Holyoke, where poverty and unemployment rates are high. Many of our members and their families have and continue to be deeply affected by the issue of mass incarceration. Given the challenges our members face coupled with our focus on civic engagements, we have a particular concern in ending prison gerrymandering and ensuring equal representation.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated</p>

	<p>people as more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Massachusetts, this resulted in roughly 10,000 people counted at their facility location rather than their actual home, which is their legal address for other purposes.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution “Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of ‘One Person, One Vote’” (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because Neighbor to Neighbor believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c170	<p>I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be imprisoned at on Census day.</p> <p>My son is incarcerated in Texas, and I am a member of the Mothers of Incarcerated Sons Society, a support group for families of incarcerated individuals.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In Rhode Island, this practice has a disproportionate effect on African-American and Latino communities since African-Americans are incarcerated at a rate almost nine times as much as Whites are. The incarceration rate for Latinos in Rhode Island is three times higher than that for Whites.</p>

	<p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home and avoid prison gerrymandering, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>Unfortunately, this is not the case in Rhode Island. Even though Rhode Island law states that a prison cell is not a residence, incarcerated people are included in population counts for redistricting. This is worrisome because currently, all of the state's prisons are clustered in Cranston.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations. I am glad to see that the Bureau is taking a step forward to count everyone in the right and most accurate place. I believe that the Census should accurately represent communities, and therefore I urge you to count incarcerated people as residents of their home address.</p>
<p>c171-247</p> <p><i>Note: Comment submissions 171-247 were sent as a group and are identical except for the name of the sender.</i></p>	<p>In Christian County, Kentucky we take great pride in our continued relationship with Fort Campbell. We strive to provide a community where soldiers and their families always feel welcome; never taking for granted the hard work, dedication and sacrifice that our military families make for our country. Fort Campbell is home to the Army's most deployed contingency forces. As a community, we embrace the cycles of deployment and ensure our military members and their families receive access to high quality services and programs.</p> <p>We take pride in serving those that serve our country. It is important that our service members are included as part of this community in the census. This once a decade head count sets a baseline population upon which annual estimates are based for the next ten years. Many federal and state assistance programs use formulas based on the decennial census or derivatives from the decennial census data. With the current methodology, the communities in which these service members reside prior to deployment are deprived of potentially large sums of federal and state funding; funding that is used to benefit the community including the service members and their families.</p> <p>By using the last duty station to count deployed service members the 2020 Census data will depict a more accurate representation of where the deployed service members live prior to deployment and in return allow the communities where these service members live access to more funding to provide services and programs for the military members and their dependents during the following ten year period.</p> <p>Thank you for consideration of this request.</p>
c248	<p>Common Cause Florida 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). Common Cause Florida urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Ensuring that redistricting is impartial and that legislative lines are drawn in a fair and transparent way is part of our core mission to promote civic engagement and accountability in government. So is ensuring that every eligible American's vote is counted fairly. Counting incarcerated persons as residents of the district in which they are temporarily held has the effect of unfairly enhancing the political power of those who live and vote in the prison district while unfairly diluting the votes of those in districts without prisons. Legislators with a prison in their district should not get a bonus for keeping the prison full. This dynamic hurts our democracy. And it hurts the communities from which these incarcerated persons hail.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the explosion in the prison population requires the Census to update its methodology again. A fair redistricting process not only involves complying with the federal law of "one person, one vote" but also with the federal Voting Rights Acts of 1965 which protects minority communities' opportunities "to participate in the political process and to elect representatives of their choice."</p>

The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census. In Florida, the growth of the prison population in recent decades has been enormous. In 2000, there were 71,616¹ individuals incarcerated by the Florida Department of Corrections, whereas today there are just over 102,000² individuals incarcerated, an increase of 42.4%. In that same time period, Florida's population grew by only 17.6%.³

Because of the rise in incarceration rates, the practice of allocating incarcerated persons to prison districts substantially skews redistricting. This is especially true because prisons are frequently located in areas geographically and demographically removed from the home communities of incarcerated persons.

An example of this skewed redistricting can be found in Florida's House District 10. After the 2000 Census, the ideal population for each State House district in Florida was 133,186 residents. But more than 7% of House District 10 is incarcerated disenfranchised people from other parts of the state, which makes the population of House District 10 really about 7% smaller than the ideal district size. This means that every 93 people in House District 10 have as much voting power and representation as 100 people elsewhere in the state. Similar distortions can be found in House Districts 12, 5 and 7. Ultimately, everyone in Florida who does not live in a district that contains a prison has their voting strength and representation diluted in the Florida State Legislature as compared to districts that are padded with a prison population.

The distortion is even greater at the local level. In the Calhoun County Board of County Commissioners, for example, 48% of the people in District 4 are incarcerated at the Calhoun Correctional Institution. As a result, the actual residents of District 4 are given almost twice as much political clout as people elsewhere in the county. Significant distortion of voting power also occurs in several other counties, including Baker, Hardee, Jefferson, and Wakulla Counties.

A handful of Florida counties proactively reject prison-based gerrymandering and base their county districts on actual residents instead of prison populations. Gulf County is one such county that already bases its districts on actual populations, not prison populations, by excluding the prison population from its redistricting data for purposes of local redistricting. Although the Florida Attorney General issued an opinion stating that Gulf County must include prison populations when drawing its county districts, the county ignored this advice in favor of drawing districts based on the constitutional and democratic principle of “one person, one vote.” Columbia, Hamilton, Holmes, and Madison Counties also base their county districts on actual residents and exclude prison populations.

Currently, four states (California, Delaware, Maryland, and New York) have taken a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities individually adjust population data to avoid prison gerrymandering when drawing their local government districts.

This ad hoc approach in a few states, counties, and municipalities is neither efficient nor universally implementable. If the Census Bureau would change its practice of counting incarcerated individuals at their home address rather than at the prison location, it would significantly alleviate the burden on state and local agencies and provide an efficient solution to greatly improve the fairness of apportionment and representation for millions of Americans. As you well know, states across the country look to the Census Bureau as the nation's foremost expert on national demographics and data, and more often than not count incarcerated persons the way the Bureau does. Once the Bureau leads the way with an update to a now outdated practice, states are sure to follow.

	<p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations; we appreciate the Bureau's aim to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause Florida believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their last-known home addresses.</p> <p>¹ Prison Populations on June 30, 2000, Prison Policy Initiative, available at http://www.prisonersofthecensus.org/resources/prisons2000.html. ² About the Florida Department of Corrections, Florida Department of Corrections, available at http://www.dc.state.fl.us/about.html; Trends in Admission Populations May 2011, Florida Department of Corrections, available at http://www.dc.state.fl.us/pub/pop/monthly/index.html. ³ Florida By the Numbers, Florida House of Representatives Redistricting Committee, available at http://censusvalidator.blob.core.windows.net/mydistrictbuilderdata/Public%20Participation/Redistricting_-_By_the_Numbers.pdf.</p>
c249	<p>Common Cause in Wisconsin 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). Common Cause Wisconsin urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>Ensuring that redistricting is impartial and that legislative lines are drawn in a fair and transparent way is part of our core mission to promote civic engagement and accountability in government. So is ensuring that every eligible American's vote is counted fairly. Counting incarcerated persons as residents of the district in which they are temporarily held has the effect of unfairly enhancing the political power of those who live and vote in the prison district while unfairly diluting the votes of those in districts without prisons. Legislators with a prison in their district should not get a bonus for keeping the prison full. This dynamic hurts our democracy. And it hurts the communities from which these incarcerated persons hail.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the explosion in the prison population requires the Census to update its methodology again. A fair redistricting process not only involves complying with the federal law of “one person, one vote” but also with the federal Voting Rights Acts of 1965 which protects minority communities' opportunities “to participate in the political process and to elect representatives of their choice.”</p> <p>The need for change in the “usual residence” rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) have taken a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and over 200 counties and municipalities individually adjust population data to avoid prison gerrymandering when drawing their local government districts. This is the direction all states should follow.</p> <p>Wisconsin, though, continues to count incarcerated persons the way the Census Bureau does. In 2011, the legislature used 5,583 incarcerated people to pad out the population of District 53. Without the incarcerated populations, the district is 10% below the required size. This gives every 90 residents of the 53rd district the same influence as 100 residents of any other district in the state.</p> <p>Not only do the Census Bureau's methods skew our district populations, but they also paint a flawed picture of their demographic makeup. District 53, for example, seems to have a large African-American population, larger than 74 other districts. But of the 2,784 African-Americans in the district, all but 590 are incarcerated. The day the people incarcerated in the district are allowed to vote again,</p>

	<p>they will be on a bus, heading back to their home districts. The Census counts the prison districts' incarcerated populations as if they resided there even though they are not a part of this district and never will be – they don't use the roads, visit the libraries, enjoy the state's public education, or walk through the parks. For all purposes, they simply do not reside in these districts.</p> <p>But even these examples are nearly unremarkable compared to the dramatic vote distortions that people face in their local governments. For example, 80% of a district in Juneau County is incarcerated. This gives every 20 residents of that district the same voting power as 100 residents of any other ward. To say that this is unfair would be an understatement. Yet Juneau is hardly the only county significantly affected; 75% of District 2 in Waupun County is incarcerated, 62% of Adams County's Districts 13 and 5 are incarcerated, 53% of a district in Juneau City is incarcerated, and 51% of Jackson County's District 12 is incarcerated, to name a few.</p> <p>Nevertheless, there 6 cities and counties rejected the Census Bureau's prison counts, successfully adjusting their redistricting population to create fair districts.</p> <p>This ad hoc approach is neither efficient nor universality implementable. If the Census Bureau would change its practice of counting incarcerated individuals at their home address rather than at the prison location, it would significantly alleviate the burden on state and local agencies and provide an efficient solution to greatly improve the fairness of apportionment and representation for millions of Americans. As you well know, states across the country look to the Census Bureau as the nation's foremost expert on national demographics and data, and more often than not count incarcerated persons the way the Bureau does. Once the Bureau leads the way with an update to a now outdated practice, states are sure to follow.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations; we appreciate the Bureau's aim to count everyone in the right place in keeping with changes in society and population realities. Because Common Cause Wisconsin believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their last-known home addresses.</p>
c250	<p>The Texas Criminal Justice Coalition 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). The Texas Criminal Justice Coalition urges you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census day.</p> <p>By designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. When this data is used for redistricting, prisons inflate the political power of those people who live near them.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because the Texas Criminal Justice Coalition believes in a population count that accurately represents communities, we urge you to count incarcerated people as residents of their home address.</p>
c251	<p>I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be imprisoned at on Census day.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first Census, and the Census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Census to update its methodology again.</p>

	<p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the Census.</p> <p>As a volunteer for the Alternatives to Violence Project and someone who has facilitated workshops in a handful of California state prisons, I know that California prisons are often located far away from the home communities of incarcerated people. Fortunately, California is one of the states that have ended prison gerrymandering, and there are over 200 counties and municipalities that have also individually adjusted their population data to avoid prison gerrymandering.</p> <p>But, nationally, by designating a prison cell as a residence in the 2010 Census, the Census Bureau concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks that are located far from the actual homes of incarcerated people. In California, African-Americans are incarcerated at a rate almost seven times as much as whites are.</p> <p>Further, it is not always possible for states to end prison gerrymandering on their own. The Massachusetts legislature, for example, concluded that the state constitution did not allow it to pass similar legislation, so it sent the Bureau a resolution in 2014 urging the Bureau to tabulate incarcerated persons at their home addresses. <i>See</i> The Massachusetts General Court Resolution "Urging the Census Bureau to Provide Redistricting Data that Counts Prisoners in a Manner Consistent with the Principles of 'One Person, One Vote'" (Adopted by the Senate on July 31, 2014 and the House of Representatives on August 14, 2014).</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations. I am glad to see that the Bureau is taking a step forward to count everyone in the right and most accurate place. I believe that the Census should accurately represent communities, and therefore I urge you to count incarcerated people as residents of their home address.</p>
c252	<p>I am a former member of the Vermont House of Representatives (2008-2014) and currently _____ of Vermonters for Criminal Justice Reform, and I submit 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). I urge you to count incarcerated people at their home address, rather than at the particular facility that they happen to be located at on Census Day.</p> <p>From my years of experience serving as an elected representative, I am keenly aware that democracy, at its core, rests on equal representation. And equal representation, in turn, rests on an accurate count of the nation's population. And in my work with Vermonters for Criminal Justice Reform I see the results of how a malapportioned legislative system creates and perpetuates unjust laws.</p> <p>As you know, American demographics and living situations have changed drastically in the 225 years since the first census, and the census has evolved in response to many of these changes in order to continue to provide an accurate picture of the nation. Today, the growth in the prison population requires the Bureau to update its methodology again.</p> <p>The need for change in the "usual residence" rule, as it relates to incarcerated persons, has been growing over the last few decades. As recently as the 1980s, the incarcerated population in the U.S. totaled less than half a million. But since then, the number of incarcerated people has more than quadrupled, to over two million people behind bars. The manner in which this population is counted now has huge implications for the accuracy of the census.</p> <p>By designating a prison cell as a residence in the 2010 census, the Census Bureau concentrated the nation's entire incarcerated population into just 5,393 census blocks that are located far from the actual homes of incarcerated people. In Vermont this means that the residents of</p>

	<p>places like Burlington, Rutland and Bennington, are instead systematically counted at the location of the state's seven prisons—or out of state in the private prison in Baldwin, Michigan.</p> <p>This miscount is unjustifiable anywhere, but my state exemplifies the incongruity between the Census Bureau's residence rules and where people actually reside. While prisoners remain residents of their home address in all states, in Vermont they also retain the right to vote while in prison. So they are represented by, and vote for, their home legislator, but at redistricting time, they are counted toward the constituency total of the legislators who have prisons in their districts.</p> <p>Currently, four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the census's population totals to count incarcerated people at home, and over 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts.</p> <p>But this ad hoc approach is neither efficient nor universally implementable. It makes far more sense for the Bureau to provide accurate redistricting data in the first place, rather than leaving it up to each state to have to adjust the census's data to count incarcerated people in their home district.</p> <p>Thank you for this opportunity to comment on the Residence Rule and Residence Situations as the Bureau strives to count everyone in the right place in keeping with changes in society and population realities. Because democracy relies on a population count that accurately represents communities, I urge you to count incarcerated people as residents of their home address.</p>

July 14, 2015

Karen Humes,
Chief of the Population Division
U.S. Census Bureau
Via email to POP.2020.Residence.Rule@census.gov

Re: Residence Rule and Residence Situations, 80 FR 28950 (May 20, 2015)

Dear Ms. Humes,

The Texas Civil Rights Project respectfully submits these comments in response to the Census Bureau's federal register notice regarding the Residence Rule and Residence Situations 80 FR 28950 (May 20, 2015).

We strongly urge you to count incarcerated people at their home addresses rather than their prison addresses, because the current system grossly distorts the census results. This is particularly true in Texas.

- Texas consistently is at or near the highest rate of incarceration in the United States.
- Most convictions are in Texas' urban areas, but most prisons are in very rural areas.
- African Americans are disproportionately affected: they represent only 11.8% of the state population but 31% of the prison population.

When the census counts inmates at their prison addresses, it reinforces state political dynamics which contribute to the phenomenon of mass incarceration in Texas.

A. Texas' prison population has grown vastly since 1980

In 1978, Texas' prison population was 24,575.¹

The 2014 prison population was 150,361.² That is a **511%** increase in 36 years.

The increase is largely the result of the state legislature creating longer and longer sentences for the same crimes.

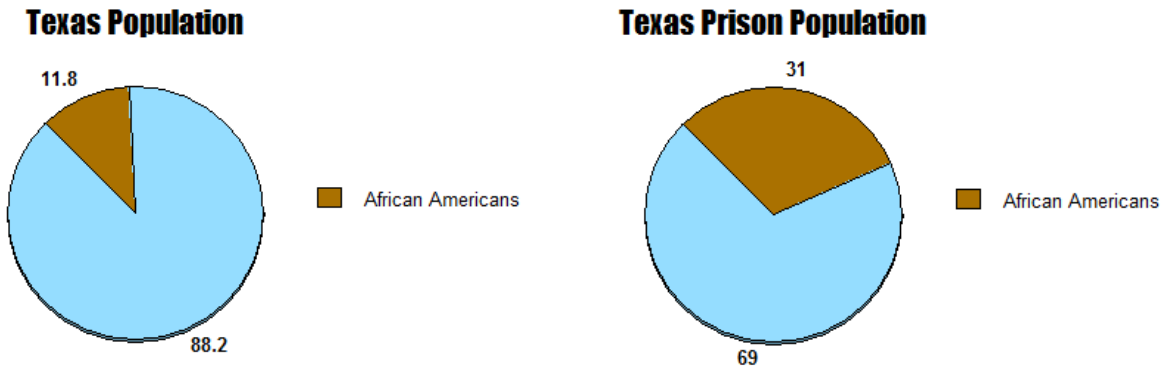
¹ *Ruiz v. Estelle*, 503 F. Supp. 1265, 1275 (S.D.Tex 1980).

² TDCJ Statistical Report FY 2014, available at http://tdcj.state.tx.us/documents/Statistical_Report_FY2014.pdf.

B. African American residents are disproportionately affected.

African Americans represent roughly **11.8%** of the Texas population.

However, they represent about **31%** of Texas' prison population.

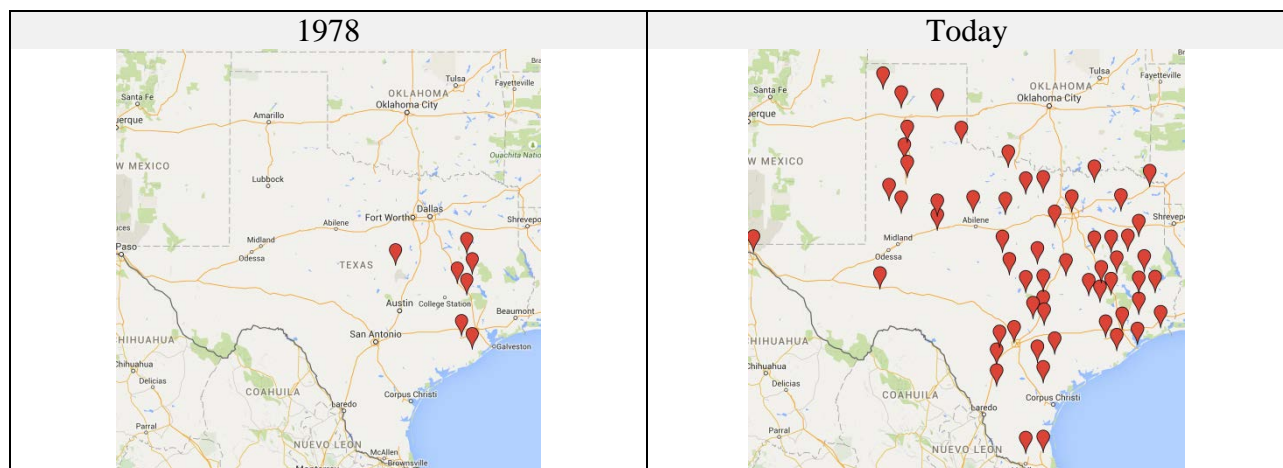


Most Texas prisoners are incarcerated for a short time. Half the people convicted every year are sentenced to two years or less, and another quarter are sentenced to 3-5 years. State law does not permit prisoners to vote, but they become eligible again after being released and finishing parole (if applicable).³

C. Prisoners are mostly from urban areas, but prisons are mostly in rural areas.

In 1978 there were 17 prisons in Texas with a total capacity for 27,253 inmates. They were distributed across **7 counties**.⁴

Today, there are 109 prisons with a total capacity for 160,023 inmates, distributed across **52 counties**.



³ Texas Election Code 11.002(4).

⁴ See Appendix A.

Counting prisoners where they are incarcerated but cannot vote – in regions of the state that are primarily rural, white, and conservative – results in the state government being disproportionately rural, white, and conservative. It simultaneously disenfranchises some residents while empowering others, which creates a snowballing effect for mass incarceration. It is no accident that the Texas prison population has not only grown since 1980, but that the growth continued to accelerate through the 1990's.

As a civil rights advocate, I strongly encourage you to change the current system. Not only would it make the electoral system more representative generally, it might be essential to breaking the cycle of mass incarceration in Texas in our lifetimes.

Appendix A

Prison	Year	Inmate Capacity	County	Total prison capacity
Huntsville	1849	1705	Walker	1705
Wynne	1883	2621	Walker	4326
Jester I	1885	323	Fort Bend	4649
Vance	1885	378	Fort Bend	5027
Clemens	1893	1215	Brazoria	6242
Goree	1907	1321	Walker	7563
Ramsey	1908	1891	Brazoria	9454
Stringfellow	1908	1212	Brazoria	10666
Central (closed 2013)	1909	950		(not counted toward current total)
Darrington	1917	1931	Brazoria	12597
Eastham	1917	2474	Houston	15071
Scott	1919	1130	Brazoria	16201
Ferguson	1962	2421	Madison	18622
Byrd	1964	1365	Walker	19987
Coffield	1965	4139	Anderson	24126
Ellis	1965	2482	Walker	26608
Mountain View	1975	645	Coryell	27253
Beto	1980	3471	Anderson	30724
Crain	1980	2115	Coryell	32839
Hilltop	1981	553	Coryell	33392
Jester III	1982	1131	Fort Bend	34523
Luther	1982	1316	Grimes	35839
Powledge	1982	1137	Anderson	36976
Hospital Galveston	1983	365	Galveston	37341
Pack	1983	1478	Grimes	38819
Terrell	1983	1603	Brazoria	40422
Estelle	1984	3480	Walker	44852
Bridgeport	1987	200	Wise	45052
Michael	1987	3305	Anderson	48357
Skyview	1988	562	Cherokee	48919
Bridgeport	1989	520	Wise	49439
Cleveland	1989	520	Liberty	49959
Daniel	1989	1384	Scurry	51343
Estes	1989	1040	Johnson	52383
Hobby	1989	1384	Falls	53767
Kyle	1989	520	Hays	54287
Clements	1990	3798	Potter	58085
Hightower	1990	1384	Liberty	59469

Hughes	1990	2984	Coryell	62453
Lewis	1990	2232	Tyler	64685
Roach	1991	1884	Childress	66569
Boyd	1992	1372	Freestone	67941
Briscoe	1992	1384	Frio	69325
Cotulla	1992	606	La Salle	69931
Duncan	1992	606	Angelina	70537
Fort Stockton	1992	606	Pecos	71143
Jordan / Baten	1992	1008	Gray	72151
Marlin	1992	606	Falls	72757
McConnell	1992	2900	Bee	75657
Robertson	1992	2984	Jones	78641
San Saba	1992	606	San Saba	79247
Smith	1992	2234	Dawson	81481
Tulia	1992	606	Swisher	82087
Gurney	1993	2128	Anderson	84215
Jester IV	1993	550	Fort Bend	84765
Lockhart*	1993	500	Caldwell	85265
Lockhart*	1993	500	Caldwell	85765
Polunsky	1993	2984	Polk	88749
Stiles	1993	2981	Jefferson	91730
Torres	1993	1384	Medina	93114
Garza East	1994	2458	Bee	95572
Garza West	1994	2278	Bee	97850
Gist	1994	2276	Jefferson	100126
Glossbrenner	1994	612	Duvall	100738
Havins	1994	596	Brown	101334
Holliday	1994	2128	Walker	103462
Lynaugh	1994	1416	Pecos	104878
Middleton	1994	2128	Jones	107006
Montford	1994	1044	Lubbock	108050
Neal	1994	1732	Potter	109782
Sayle	1994	632	Stephens	110414
Stevenson	1994	1384	DeWitt	111798
Wallace	1994	1448	Mitchell	113246
Allred	1995	3,722	Wichita	116968
Bartlett	1995	1049	Williamson	118017
Bradshaw	1995	1980	Rusk	119997
Cole	1995	900	Fannin	120897
Connally	1995	2148	Karnes	123045
Dalhart	1995	1398	Hartley	124443
Diboll	1995	518	Angelina	124961
Dominguez	1995	2276	Bexar	127237
Formby	1995	1100	Hale	128337

Goodman	1995	612	Jasper	128949
Halbert	1995	612	Burnet	129561
Henley	1995	576	Liberty	130137
Hodge	1995	989	Cherokee	131126
Hutchins	1995	2276	Dallas	133402
Johnston	1995	612	Wood	134014
LeBlanc	1995	1224	Jefferson	135238
Lindsey	1995	1031	Jack	136269
Lychner	1995	2276	Harris	138545
Moore, B.	1995	500	Rusk	139045
Moore, C.	1995	1224	Fannin	140269
Murray	1995	1341	Coryell	141610
Ney	1995	576	Medina	142186
Plane	1995	2291	Liberty	144477
Rudd	1995	612	Terry	145089
Segovia	1995	1124	Hidalgo	146213
Telford	1995	2872	Bowie	149085
Wheeler	1995	576	Hale	149661
Willacy County	1995	1069	Willacy	150730
Mineral Wells (closed 2013)	1995	2103		(not counted toward current total)
Dawson (closed 2013)	1995	2216		(not counted toward current total)
Hamilton	1996	1166	Brazos	151896
Sanchez	1996	1100	El Paso	152996
Young	1996	455	Galveston	153451
Kegans	1997	667	Harris	154118
Lopez	1997	1100	Hidalgo	155218
Travis County	1997	1161	Travis	156379
Ware	1997	508	Mitchell	156887
Woodman	1997	900	Coryell	157787
East Texas	2004	2236	Rusk	160023



City of Jacksonville

Office of the Mayor

PO Box 128 • Jacksonville NC 28541-0128 • 910 938-5224

July 15, 2015

Karen Humes
Chief
Population Division
U.S. Census Bureau
Room 5H174
Washington, DC 20233

And via email: POP.2020.Residence.Rule@census.gov

Reference: Notice and Request for Comment: **2010 Census Residence Rule**

Madam:

The City of Jacksonville respectfully responds to your request for comments on the 2010 Census Residence Rule. As the proud host city to Marine Corps Base Camp Lejeune and Marine Air Station New River, Jacksonville seeks to ensure that the heroes who live among us are fairly and adequately counted.

At the center of the issue is the question of where their usual residence is. We contend there is no question that whether deployed for a short period or even in time of war, our military associated with these bases and those similarly situated, have their usual residence here. This is where their families are and clearly where they intend to return after a deployment.

Jacksonville, Onslow County and similar military communities were deeply affected by the count during the 2010 Census that set the servicemember's Census enumeration as their Home of Record, but left confused family members in the same household to reconcile a directive that they be considered residents of this community. For many, they simply did not fill out the forms because of this confusion.

We ask that you treat our military as you do others who have work that requires them to travel or temporarily be somewhere for that work. Their intentions are to return to their usual residence where their family and community ties exist.

We appreciate this opportunity to speak about an issue that has significantly impacted our community's status and ability to serve these dedicated servicemembers. We stand ready to speak further on this issue and thank you for receiving this and our attached comments.

City of Jacksonville, NC

Response to Federal Register Request for comments on the 2020 Census Count Issues

Specifically: Census of Military Persons during Deployments, wartime and normal rotation

May 2015

Summary

During the 2010 Census, Vietnam era guidance was used to count deployed military at their home of record rather than from the bases and host communities where they lived. Family members were to be counted at their homes on or in the communities around the bases, but many families incorrectly assumed the guidance applied also to them, and did not complete Census documents reflecting their status. For the State of North Carolina, thousands of servicemembers were enumerated at locations that had little to do with them, and for the host communities around the bases, the loss of an accurate count resulted in perceptions of a poor economy, reduced revenues based on population and a much reduced base count on which a decade of estimates are now based.

Request

To work with the services to determine the best method of counting, including temporary deployments and deployments during wartime or to simply count the military with their spouses where that is their usual residence, even if both spouses are deployed.

The City requests deployed military members be counted at their usual residence in 2020. That is the usual residence from which they deployed from, and the one to which they intend to return. The City believes this rule, which follows the logic of other persons temporarily away from their home working are counted at their usual place of residence, should apply both in wartime and for non-wartime deployments.

Background

Guidance for the 2010 military counts came from a specific publication:

*"The military overseas population includes U.S. military personnel deployed for **wartime** efforts and U.S. military personnel on U.S. military vessels with a homeport outside the United States." Citation from 2010 Census publication D-3277*

From the Residency rules in the public notice for Military Persons:

"1(a) People away from their usual residence on Thursday, April 1, 2010 (Census Day), such as on a vacation or a business trip, visiting, traveling outside the U.S., or working elsewhere without a usual residence there (for example, as a truck driver or traveling salesperson)—Counted at the residence where they live and sleep most of the time. (80 FR 28950)

"9(a) U.S. military personnel living in military barracks in the U.S.—Counted at the military barracks.

"9(b) U.S. military personnel living in the U.S. (living either on base or off base) but not in barracks—Counted at the residence where they live and sleep most of the time. (80 FR 28951)

“9(c) U.S. military personnel on U.S. military vessels with a U.S. homeport—Counted at the onshore U.S. residence where they live and sleep most of the time. If they have no onshore U.S. residence, they are counted at their vessel's homeport. (80 FR 28951)

Effects from the 2010 Census in our area:

1. **Single Military** who were stationed at area bases (communities) who were **deployed** were **not counted** as **residents** of their bases.
2. **Military with families** (on or off bases) who were deployed were **not counted** where their families were.
3. **Military associated persons living off base were less likely to fill out Census forms when their military member was told they would be counted elsewhere**

Our View

The premise of the rules cited in the request for comment Federal Register Residency Rules directs that if someone is temporarily away from their usual place of residence, they should be counted at their usual place of residence. The City of Jacksonville encourages this premise to apply to military persons who are temporarily deployed.

For purposes of our discussion, we used the Marine Corps term deployed, which in most cases indicates a temporary assignment, duty or otherwise not permanent assignment for an individual or a unit.

In 2010, a large number of military persons assigned to bases within North Carolina were counted at their home of record because they were deployed. Many were assigned to the War on Terror, and some were assigned to routine training. The publically facing basis was the application of a rule cited in the 2010 Census publication D-3277 which as stated above, called on wartime deployments to be counted at their home of record.

For those assigned to Camp Lejeune Marine Corps Base and the Marine Corps Air Station New River it was clear that they were to return to the bases from where they deployed and where their families and loved ones were still in residence, and not return to their home of record.

Because they were assigned to units associated with area bases, the servicemembers have a usual residence on or nearby the bases. Their assignment, even in wartime, is temporary and they intend to return to their usual residence on or nearby the bases from which they were deployed.

It is estimated that the 2010 Census had about 25,000 to 34,000 troops from North Carolina counted elsewhere. Nationally, about 1.4 million persons were counted away from their assigned bases in 2010. NC gained 30,298 in counting the home of record status for all troops. This count does not accrue to local jurisdictions, but only to the entire state's population count for apportionment.

The failure to count these troops as residents led to perceptions of a significant loss of population for our community. It caused those who read the headlines to back away from economic advances for our community. Additionally, the lower count robbed local communities of allocated revenues based on population used to support the military families and other citizens of our community.

Home of Record frequently not accurate

During the preparation for the 2010 Census, City officials contacted the Special Populations branch to inquire about military counts. Technical Paper 62 was cited as the guidance for the directive in 2010 Census publication D-3277. The paper reflected that Congressional intent was

to have military deployed, temporarily or otherwise, be counted in the Census. A system that would count the personnel was identified but “(b)ecause of a lack of funding and other constraints...the DOD cancelled its plans” and a decision was reached to count deployed persons at their home of record as the first option.¹

In many cases, the Home of Record for a US Marine may indicate the recruiting station where they entered service rather than from the community they came. Years after entering the service, the home of record may not reflect their usual residence. The City believes the Home of Record is completely unrelated to the definitions used in the Residency Rule for usual residence and that the application of the premise of using their usual residence is most accurate.

Secondary Effect

Because the deployed military member was counted at a home of record in 2010, their remaining family members who should have been counted in their shared usual residence (and where the military member will most likely return) were sometimes confused about their status. The City of Jacksonville found many families who declined to be counted locally because of the confusion. Some believed filling out the form would change their status in contradiction to the military member’s status for other purposes. Many states allow military on active duty to remain a citizen of their state for tax purposes, without regard for their usual residence during this period.

Through the partnership with the US Census, our community’s Complete Count Committee launched billboards and messages from trusted voices to encourage military families whose active member or members were being counted at their home of record to fill out the Census questionnaire indicating what was truly their usual residence in the community.

Routinely Marine troops are deployed as part of a Marine Expeditionary Unit. Primarily, these are US Navy ship-based and roam a specific theater frequently being given assignments based on world events. Assignments were normally six-months, but world conditions and circumstances drive the length of the deployment. Proud of the moniker as the “President’s 9-1-1 force,” other Marine units may deploy by other means to a theater based on world events or on standby. In each case, the units intend to perform their assignments and return back to the base from which they deployed.

Counting Marine troops aboard ships as being residents of the homeport of the ship does not represent their usual residence as the ship is merely a transport and platform on which they perform their duties. In most cases, the ships arrive at ports in North Carolina or off shore where they pick up the service members assigned to the deploying units.

“Rear Presence”

Marine units deployed frequently have a full-time presence at the base whether or not it is deployed. This is further evidence of the relative permanence of their base operations and more evidence that members of that unit should clearly be counted as part of the base host community where they come from; either in base housing or as living off base.

Even if the unit does not have a rear presence, the clear evidence of usual residence is that they validate their intention to return to the Marine bases because that is where their families live either on base or in the community. This demonstration of rear presence is demonstrated at the celebrations of returning deployed persons met by families who largely are residents of the community.

¹ US Department of Commerce, Economics and Statistics Administration, Bureau of the Census, Karen M. Mills, Technical Paper 62, “Americans Overseas in U.S. Censuses” (portions are attached)

Congressional Attention

The City of Jacksonville worked with other communities to bring attention to the application of counting deployed troops during wartime at their home of record, and elicited a series of letters drawing attention to the issues. A majority of the State's 2010 Congressional delegation and a House Committee on military affairs signed two letters.

In addition to the work done by the City of Jacksonville prior to the Census, the City convened a group at the Onslow County Multipurpose Complex April 6, 2011 to gain State attention to the matter. Representatives from Cumberland County, Fayetteville, Craven County, Havelock, Wayne County and Goldsboro attended. Governor's Census Liaison Bob Coats was helpful in relaying the issue to others and interpreting Census actions.

Suggestions for the 2020 Census

The City supports actions that would cause the administration of the services to present the count of troops as they are assigned for a duty station. For troops assigned a foreign base, they are part of the overseas population. For troops assigned a main on shore base, they should be counted there even if they are temporarily deployed. They clearly intend to return to the assigned base after their deployment, and believe that to be their usual residence.

We believe that each service should be challenged to prepare the count of deployed persons.

- For military persons living in a barracks, the count should reflect their assignment to that base and should be filled out by the military as part of the normal Quarters count.
- For military persons living with their families, the count should reflect their usual residence, whether it is on base or off base. Families with a deployed member should be encouraged to mark the temporally deployed persons as deployed and the base to which the member is assigned.

The City of Jacksonville is proud of our military members and wants to accurately count persons in our community.

Resources and References

Census Publication	Page 7
US Census 2010 Publication D-3277: A Guide for US Military Personnel	
US Census Special Population Programs Branch Communication	Page 9
October 2009 Email Exchange with Special Population Programs Branch including guidance document from US Census. Portions of Technical Paper 62 are included in the responses from the Special Population Programs Branch.	
Reaction Letters	Page 23
Collection of Letters including responses from US Census officials	
Reaction and Results	Page 33
Some of the work of the Complete Count Committee and some results, graphics and discussion about Census counts	



WHAT YOU NEED TO KNOW

Sound Off for the 2010 Census: A Guide for U.S. Military Personnel

Where Will You and Your Family Be Counted?

People in the United States will be counted at their usual residence, the place where they live and sleep most of the time. This place is not necessarily the same as the person's voting residence, legal residence, or permanent residence. Determining usual residence is easy for most people—but it may not be so apparent for people in the military and their families.

- U.S. military personnel residing in the United States are counted at the residence where they live and sleep most of the time. This residence might be on or off the military installation.
- Crews of military vessels with a U.S. homeport are counted at the onshore residence where they live and sleep most of the time. If they do not report an onshore residence, they are counted at their vessel's homeport.
- U.S. military personnel stationed outside the United States, including dependents living with them, will be counted as part of the U.S. overseas population using administrative records from the Department of Defense. These persons stationed overseas will be included in the state totals used to determine the allocation of seats in the U.S. House of Representatives. The military overseas population includes U.S. military personnel deployed for wartime efforts and U.S. military personnel on U.S. military vessels with a homeport outside the United States.

An Overview of the 2010 Census for the Armed Forces.

Military installations in the United States appoint a project officer to work with the Local Census Office (LCO). The LCO trains base personnel, provides materials, and assists with any questions or problems during the census.

- Armed forces personnel, who live in military group quarters such as barracks/dormitories, disciplinary barracks/jails, or military treatment facilities, will be given a special census form called a Military Census Report (MCR). Personnel assigned to a military group quarter will be counted at the group quarter.
- U.S. military personnel on board Navy and Coast Guard vessels with a U.S. homeport will receive a Shipboard Census Report (SCR) to complete. If they have an onshore address, they can claim it as their home address. If not, they will be counted on board the ship at its homeport.
- People living in family housing on base in the United States will receive the standard census questionnaire through the mail.
- Vessel personnel, who also have an onshore address, will receive the standard census questionnaire at their home address AS WELL AS A SHIPBOARD CENSUS REPORT ON BOARD THE SHIP. Please complete both the standard census questionnaire and the Shipboard Census Report. When completing the Shipboard Census Report, make sure to write in the full address OF YOUR ONSHORE RESIDENCE IF you live or stay THERE most of the time.

The 2010 Census: Quick, Easy, and Confidential.

- 2010 Military Census Reports contain 6 questions and are simple to fill out.
- By law, the Census Bureau cannot share an individual's census questionnaire responses with anyone, including other federal agencies and law enforcement entities.

Your Participation Is Vital.

The U.S. Constitution directs the Census Bureau to conduct a complete count of all people living in the United States every 10 years. Census information helps in determining how federal, state, local, and tribal governments make decisions affecting the people of this country and how over \$400 billion per year of taxpayers' money is allocated by government. Participating in the census is in everyone's best interest. People who answer the census help their communities obtain state and federal funding for neighborhood improvements, such as deciding where to build schools, hospitals, and roads, or about services for the elderly, job training, and more. The best way to make sure people like yourself are counted in the census is to fill out the form and encourage others to do so.

By law, the Census Bureau cannot share individual answers it receives with anyone. Also, we do not share individual answers with welfare agencies, courts, police, or the military. Census workers are sworn to secrecy. The Census Bureau workforce understands the importance of safeguarding confidential data. They know that if they give out any information, they can face a \$250,000 fine and jail time.

For additional information about the 2010 Census, visit the Census Bureau's Internet site at <http://www.census.gov> or call one of our Regional Census Centers across the country:

Regional Census Center	Phone Number
Atlanta	404-335-1555
Boston	617-223-3700
Charlotte	704-936-5300
Chicago	312-454-2700
Dallas	214-267-6900
Denver	720-475-3640
Detroit	313-396-5200
Kansas City	816-994-2000
Los Angeles	818-717-6700
New York City	212-971-8810
Philadelphia	215-717-1020
Seattle	425-908-3000

D-3277

US Census Special Population Programs Branch Communication

From: brian.de.vos@census.gov
Sent: Tuesday, October 13, 2009 8:55 AM
To: [REDACTED]
Subject: Counting military deployed for the 2010 Census
Attachments: Tech Paper 62.pdf; Home of Record 4903.pdf

[REDACTED], below is some information on how we count military personnel stationed or deployed overseas. We have used the same procedures for counting overseas military personnel and dependents since 1990. The address that military personnel enter on their Census questionnaire will not affect their Home of Record. I will pass this information on to our PR department. I will also bring this up at our next scheduled meeting with the Department of Defense in November.

The Census Bureau will obtain counts of U.S. military and federal civilian employees stationed overseas and their dependents living with them that can be allocated to a home state for the purpose of reapportioning seats in the U.S. House of Representatives. The term "overseas" is defined as anywhere outside the 50 U.S. States and the District of Columbia. Federal government departments and agencies will provide overseas certified counts by home state from their administrative records.

These overseas data are used for apportionment purposes only. Overseas counts are not included in PL94 for Congressional redistricting or SF1. The data do not provide the sub-state geographical precision required to allocate this group to jurisdictions below the state level.

These procedures and data products for federally affiliated Americans living overseas follow the same processes that were in place during Census 2000.

Overseas military personnel, both stationed and deployed (including the National Guard), will be included in the overseas count in Census 2010.

They are counted administratively using counts from the Defense Manpower Data Center (DMDC), Department of Defense, based on home of Record (HOR) information as close to April 1, 2010, as possible. When HOR is not available we use legal residence and if that is not available then we use last duty station. The counts are added to the resident population totals for each state and used to determine the apportionment counts for the 2010 Census.

Below are some documents on our decision to use HOR for the overseas counts

Pages 5 and 6 of Tech Paper 62, provide information on the decision to go with HOR.
(See attached file: Tech Paper 62.pdf)

(See attached file: Home of Record 4903.pdf)

Brian De Vos
Decennial Management Division
Special Population Programs Branch
Project Manager
3H584B
301-763-3422

"You can bank your money, but you can't bank your time" - Kevn Kinney

[REDACTED]

From: brian.de.vos@census.gov
Sent: Tuesday, October 20, 2009 9:16 AM
To: [REDACTED]
Cc: brian.de.vos@census.gov; james.l.dinwiddie@census.gov; annetta.clark.smith@census.gov; pamela.h.white@census.gov; dora.b.durante@census.gov
Subject: RE: Counting military deployed for the 2010 Census

Good morning [REDACTED]. Thank you for interest and support in the 2010 Census. See answers below and let me know if you have any more questions.

Brian De Vos
Decennial Management Division
Special Population Programs Branch
Project Manager
3H584B
301-763-3422

"You can bank your money, but you can't bank your time" - Kevn Kinney

[REDACTED] > To
10/19/2009 11:14 AM "'brian.de.vos@census.gov'"
<brian.de.vos@census.gov>
cc
Subject
RE: Counting military deployed for
the 2010 Census

Sir,
I appreciate your response and your explanation. Since this send, I've been discussing this with many persons.

Several questions have repeatedly been asked of me:

1. "If the person is living off base, they have a family here, they get a Census questionnaire, do they record the family member living here?"

--- 1. Military personnel living off base will receive the standard Census questionnaire. All members of the household should be entered on this form with the exception of a family member deployed overseas.

a. Scenario 1 - John, Mary and their 2 children live off base.

i. Result - John, Mary and the 2 children should be

entered on the standard Census questionnaire that they receive in the mail.

- b. Scenario 2 - John, Mary and their 2 children live off base but John was deployed to Iraq on March 1, 2010.

- i. Result - John is counted in the overseas population via administrative records from the Department of Defense. John will not have to fill out any Census forms.
- ii. Result - Mary and the 2 children receive a standard Census questionnaire in the mail. Mary and the 2 children should be entered on the standard Census questionnaire. John should NOT be entered on the questionnaire since he is being counted in the overseas population.

2. "What about apartments where two or more service members are living. One or more are deployed and the remaining person gets the Census form. Are they wrong to report the person as living there but deployed?"

--- 2. Military personnel living off base will receive the standard Census questionnaire. Everyone at the address should be entered on this form with the exception of the resident deployed overseas.

- a. Scenario 1 - John and Rob share an apartment off base.
 - i. Result - John and Rob fill out 1 standard Census questionnaire for the address and they should both be entered on the form.
- b. Scenario 2 - John and Rob share an apartment off base but John was deployed to Iraq on March 1, 2010.
 - i. Result - John is counted in the overseas population via administrative records from the Department of Defense. John will not have to fill out any Census forms.
 - ii. Result - Rob will receive a standard Census questionnaire in the mail. Rob should be entered on the standard Census questionnaire. John should NOT be entered on the questionnaire since he is being counted in the overseas population.

3. Is there any more underlying specific guidance for the military persons who are designated as "project officer" for this activity?

--- Each GQ (barrack/dormitory, disciplinary barrack/jail, military treatment facility) will be asked to provide a "Project Officer" to help with the Census. The Project Officer will be trained between March 16-27, 2010 on how to enumerate the GQ. This training will provide a step by step guide on how to enumerate the GQ and will take about 2 hours. We ask that the Project Officer enumerate the GQ on April 1, 2010 or soon after.

--- Non GQ addresses will be enumerated by Census staff and will require an escort while on the installation.

Technical Paper 62

Americans Overseas in U.S. Censuses

by
Karen M. Mills

U.S. Department of Commerce
Economics and Statistics Administration
BUREAU OF THE CENSUS

- Data were readily available from administrative records for Americans overseas affiliated with the Federal Government. Data on overseas Armed Forces personnel, Federal civilian employees, and their dependents living with them could be obtained from the Departments of Defense and State and the Office of Personnel Management (OPM).
- Complete or even adequate counts of private Americans overseas not affiliated with the Federal Government could not be obtained in 1960 and 1970, when special efforts were made to enumerate these persons, and there was some question as to whether this universe could be properly defined. Major problems associated with obtaining an accurate count of this component included the voluntary basis on which this group had to be enumerated (respondents had to go to a U.S. embassy or consulate to obtain a form), the lack of up-to-date embassy and consulate mailing lists for Americans living in their jurisdictions, and the definitional problem of who should be included in such an enumeration.

With regard to the definitional issue, many alternatives could be considered. For example, should an enumeration of private Americans overseas include all persons with a claim to U.S. citizenship? Only U.S. citizens who intended to return to the United States? All persons born in the United States (some of whom would have gone on to become citizens of the country in which they currently resided)? Only those citizens eligible to vote? Only those tied financially to the United States, such as Social Security beneficiaries or employees of U.S. or multinational corporations? People having dual (U.S. and second-nation) citizenship?

It was believed that even if a clear operational definition of this universe could have been developed, it still would have been necessary to contact a much broader range of potential respondents in order to identify those who actually met the conceptual criteria for inclusion.

The **1990 census**, for only the second time in census history, included certain components of Americans overseas in the apportionment population. The overseas components included were members of the Armed Forces, Federal civilian employees, and their dependents living with them. Counts of these persons were obtained from 30 Federal departments and agencies and were based primarily on administrative records.

A significant factor in the Census Bureau's decision to allocate segments of the overseas population to their home State for apportionment purposes was the substantial amount of bipartisan congressional support given to this matter late in the 1980 decade. Several bills requiring inclusion of overseas military personnel in the apportionment counts were introduced in both houses of the 100th and 101st Congresses.

The Department of Commerce, in an August 1989 press release, announced plans to include overseas military and civilian DOD employees in the 1990 census apportionment

population. In addition, the Deputy Director of the Census Bureau testified before the House Subcommittee on Census and Population in September 1989 that the Bureau would include overseas military and civilian DOD employees and their associated dependents in the 1990 apportionment counts. He cited several reasons for the decision:

- The 1969 Justice Department opinion recognizing that the Director of the Census Bureau had discretionary authority to decide whether to include overseas Americans in the apportionment population.
- Bipartisan congressional support for including overseas military personnel.
- The DOD's decision that it could provide the necessary data to the Bureau in time to meet the December 31, 1990 deadline for reporting apportionment counts to the President.

About the time of the hearing, the DOD, with technical assistance from the Census Bureau, planned to enumerate its overseas personnel and dependents concurrent with the 1990 stateside census enumeration. These data would be used by the Bureau for inclusion in the apportionment counts and by DOD for a variety of programs.

The Deputy Director further testified that these overseas personnel and their dependents would have maintained a usual residence in the United States had they not been assigned abroad in fulfillment of their military and professional obligations.

Because of a lack of funding and other constraints, in December 1989, the DOD cancelled its plans to conduct an overseas enumeration but agreed to provide overseas counts from its existing automated administrative records. The DOD identified three alternative methods from its administrative files for determining home State affiliation of its overseas military personnel:

- Home of record—State declared by the member of the Armed Forces to be the permanent home at time of entry or reenlistment into the service. Home of record is used to determine the travel stipend granted upon discharge (derived from personnel files).
- Legal residence—State of residence a member declares for State income tax withholding purposes (derived from payroll files).
- Last duty station—State location of the facility to which the member was assigned before going overseas (derived from personnel files).

After reviewing the three data sources available in DOD records for providing counts, the Census Bureau concluded in July 1990 that DOD's "home of record" was the most consistent with the concept of "usual residence," used since 1790 as the basis for determining residency in the decennial census. Also, home of record was the concept used in allocating most overseas military personnel in the 1970 census.

In many cases, legal residence might reflect a State chosen because it had no or low taxes or one where military personnel were exempt from paying income taxes. A 1987 General Accounting Office report had indicated that a significant proportion of military personnel declared their legal residence in one of the States that did not tax personal wages or exempted all military pay from their income.

The use of last duty station, reflecting the location of the last facility to which a person was assigned, would result in counting some military personnel and their dependents in States other than their actual previous U.S. residence. For example, those assigned to the Pentagon would be counted as District of Columbia residents even though they might have actually lived in Maryland or Virginia (although physically located in Virginia, the Pentagon has a duty station of the District of Columbia).

Furthermore, one bill requiring the inclusion of overseas military personnel and dependents in the apportionment population (H.R. 4903) mandated the use of "home of record." That bill passed the House of Representatives in June 1990, and a similar proposal (S. 2675) had been referred to the appropriate Senate committee for consideration.⁶

In response to the strong congressional support for the use of home of record data, the Commerce Department decided to use those data, supplemented and improved with DOD's automated records for missing information, as the basis for including overseas military and dependents in the 1990 apportionment counts.

A June 1990 Congressional Research Service report for Congress found that allocating military personnel by State using home of record most closely resembled the State-by-State distribution of the resident population. An allocation based on last duty station varied from the resident population distribution by 10 times as much as home of record, and legal residence, by nearly 3 times as much.

In addition to the arrangement made with DOD for obtaining counts of its overseas military personnel, the Census Bureau obtained counts of overseas personnel by home State from 29 other Federal agencies. These counts were based principally on administrative records from the employing agency. The DOD also conducted a survey of

its overseas civilian employees and dependents using a short, self-administered questionnaire.

As in the 1970 census, allocations of the 1990 overseas population for apportionment purposes were made at the State level only. This population was not included, therefore, in the substate counts used for redistricting because the administrative records did not contain detailed (street/place) addresses.

In May 1991, the Commonwealth of Massachusetts filed a legal challenge against the Secretary of Commerce and others. One of the issues in the case was the constitutionality and/or legality of including overseas U.S. military and Federal civilian employees and their dependents living with them in the 1990 census counts used to apportion the U.S. House of Representatives. Massachusetts lost its 11th House seat by a narrow margin as a result of the apportionment after the 1990 census. This seat, the 435th House seat allocated under the apportionment formula, was shifted to Washington State.

The 1990 census apportionment, calculated by the "method of equal proportions" that had been used since the 1940 census, assigned a priority value to each congressional seat. Constitutionally, every State starts with one seat. Under the method of equal proportions, additional seats are added to each State's delegation based on the priority value for that State's next seat relative to the other 49 States' priority values for their next seats. Using the 1990 apportionment population, Washington's 9th seat was the 435th and last seat assigned; Massachusetts' 11th seat would have been the 436th.

In February 1992, a three-judge panel of the U.S. District Court for the District of Massachusetts held that the decision of the Secretary of Commerce to include overseas military and Federal civilian employees and their dependents living with them in the apportionment counts was "arbitrary and capricious" under the standards of the Federal Administrative Procedure Act.

In an appeal by the Commerce Department, the U.S. Supreme Court in June 1992 unanimously reversed the three-judge panel's decision. Thus, the Secretary of Commerce's decision to allocate Federal military and civilian personnel serving abroad and their dependents living with them to the State population totals for purposes of apportioning the U.S. House of Representatives was allowed to stand and, as a result, Massachusetts lost a seat in the House of Representatives.

⁶Once the Census Bureau decided to include overseas military personnel and their dependents in the apportionment population, no further action was taken in the 101st Congress on this matter.

1980 CENSUS

The U.S. population abroad reported in the 1980 census was 995,546. As of April 1, 1980, this figure comprised—

- land-based U.S. military personnel stationed abroad and their dependents living with them.
- crews of U.S. Navy vessels deployed to the 6th or 7th Fleets.
- Federal civilian employees stationed abroad and their dependents living with them.

Thus, the overseas population in 1980 was restricted to those Americans affiliated with the Federal Government and their dependents living abroad with them. It did not include private U.S. citizens abroad for an extended period or crews of U.S. merchant marine vessels outside American waters, as was true for both the 1960 and 1970 censuses. Also unlike 1970, no component of Americans overseas was included in the apportionment population for 1980.

Information on the federally-affiliated population overseas was obtained from administrative records rather than by direct enumeration. The Department of Defense (DOD) provided counts of its military and civilian employees stationed abroad and their dependents living with them. The Office of Personnel Management and Department of State provided counts for all other overseas Federal employees and their dependents abroad. No provision was made in 1980 for the enumeration of any component of the overseas population on census report forms, as had been done in censuses since 1950.

The modifications to recent past enumeration procedures were made for the following reasons: The number of Americans overseas who were affiliated with the Federal Government was smaller than in 1970; the data were readily available from administrative records for the major population groups overseas; there was no legal requirement for the direct enumeration of Americans overseas or

for including Americans overseas in the apportionment population; and the 1960 and 1970 census experience had shown that the count of Americans living overseas who were not affiliated with the Federal Government could not be obtained in a complete manner, nor could this group be readily defined.

Crew members of U.S. merchant marine vessels outside U.S. territorial waters on April 1, 1980, were not enumerated or otherwise counted in the 1980 census. Masters of such vessels completed a location report (D-3091) but, if outside territorial waters, crew members were not required to complete a Shipboard Census Report (Form D-23), the individual enumeration form for crews of vessels in the 1980 census.

Residence Rules

Entries relating to the overseas population in the table of residence rules contained in the 1980 *Questionnaire Reference Book* for stateside enumeration were the following:

<i>Type of Person</i>	<i>Resident of—</i>
Member of the Armed Forces:	
Assigned to a military vessel which is deployed to the 6th or 7th Fleet.	The vessel
American citizen abroad:	
Employed by U.S. Government with place of duty abroad or member of the family of such person living with him or her.	DO NOT LIST
Any other American working or living abroad for extended period of time.	DO NOT LIST

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Congressional Record References	Bill Summary & Status	Printer Friendly Display - 3,183 bytes. [Help]
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To amend title 13, United States Code, to ensure that military personnel stationed outside the United States are not excluded from any census of population. (Engrossed as Agreed to or Passed by House)

101st CONGRESS

2d Session

H. R. 4903

AN ACT

To amend title 13, United States Code, to ensure that military personnel stationed outside the United States are not excluded from any census of population.

HR 4903 EH

101st CONGRESS

2d Session

H. R. 4903

AN ACT

To amend title 13, United States Code, to ensure that military personnel stationed outside the United States are not excluded from any census of population.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF CIVILIAN AND MILITARY PERSONNEL STATIONED ABROAD.

Section 141 of title 13, United States Code, is amended--

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

`(g) Effective beginning with the 1990 decennial census of population, in taking any tabulation of total population by States for purposes of the apportionment of Representatives in Congress among the several States, the Secretary shall take appropriate measures to ensure that--

`(1) each member of the armed forces assigned to a post of duty outside the United States shall be included, together with any of the member's dependents who reside at or near the same post; and

`(2) each member of the armed forces, and any dependent of any such member, included in accordance with paragraph (1) shall be enumerated as if residing at such member's `home of record', as defined by the Department of Defense for administrative purposes.'.

SEC. 2. ADDITIONAL REPORTING REQUIREMENT.

Not later than 6 months after submitting the report required under section 141(b) of title 13, United States Code, with respect to the 1990 decennial census of population to the President, the Secretary of Commerce shall submit to the appropriate committees of Congress a report setting forth--

(1) for each State, what portion of the total population reported for such State under such section 141(b) consisted of--

(A) members of the armed forces (or their dependents) stationed (or living) abroad; or

(B) civilian employees of the Federal Government (or their dependents) stationed (or living) abroad;

(2) which departments or agencies of the Federal Government participated in any program or measures designed to provide for the inclusion of individuals described in paragraph (1) (A) or (B) in the 1990 decennial census of population; and

(3) what criteria were used by each such department or agency in attributing individuals described in paragraph (1) (A) or (B) to particular States for purposes of such census.

Passed the House of Representatives June 26, 1990.

Attest:

Clerk.

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OFFICE
The Under Secretary
Washington, D.C. 20230

July 23, 1990

Honorable Herbert H. Kohl
United States Senate
Washington, D.C. 20510

Dear Senator Kohl:

As you are aware, the Department of Commerce (DOC) reached an agreement with the Department of Defense (DOD) last year to include overseas military personnel and their dependents in the 1990 census counts to be used to reapportion the U.S. House of Representatives. It was agreed that the home state affiliation of such persons would be determined in a manner as consistent as possible with the concept of "usual residence" used by the Census Bureau for two hundred years to count the nation's population.

After reviewing the alternative data sources identified by DOD for providing such counts, DOC has decided to use home of record designations in existing DOD administrative records rather than the legal residence or last U.S. duty station of military personnel to determine home state affiliation. Census Bureau technical staff believe that home of record is most consistent with our policy for determining residency.

In a recent letter to House Armed Services Committee Chairman Les Aspin, Assistant Secretary of Defense Christopher Jehn stated that last duty station most closely approximates the "usual residence" concept. However, because last duty station merely reflects the location of the facility to which a person is assigned, many military personnel and their dependents would be counted in states other than their actual previous residence (such as those assigned to the Pentagon, who would be counted as D.C. residents even though they lived in Maryland or Virginia). The option of using legal residence was rejected because in many cases legal residence may be a place where the person has never lived.

While Assistant Secretary Jehn's letter indicated that approximately ten percent of DOD's personnel files are missing home of record data, DOD has agreed to use all automated records available to supplement these files in order to provide data of sufficient quality for apportionment purposes. Bureau staff will work closely with DOD staff to assure the quality of those data.

Sincerely,

Michael R. Darby
Under Secretary
for Economic Affairs

Reaction Letters

IKE SKELTON, MISSOURI, CHAIRMAN
JOHN SPRATT, SOUTH CAROLINA
SOLOMON P. ORTIZ, TEXAS
GENE TAYLOR, MISSISSIPPI
NEIL ABERCROMBIE, HAWAII
SILVESTRE REYES, TEXAS
VIC SNYDER, ARKANSAS
ADAM SMITH, WASHINGTON
LORETTA SANCHEZ, CALIFORNIA
MIKE MCINTYRE, NORTH CAROLINA
ROBERT A. BRADY, PENNSYLVANIA
ROBERT ANDREWS, NEW JERSEY
SUSAN A. DAVIS, CALIFORNIA
JAMES R. LANGEVIN, RHODE ISLAND
RICK LARSEN, WASHINGTON
JIM COOPER, TENNESSEE
JIM MARSHALL, GEORGIA
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CHELLIE PINGREE, MAINE
LARRY KISSELL, NORTH CAROLINA
MARTIN HEINRICH, NEW MEXICO
FRANK M. KRATOVIL, JR., MARYLAND
ERIC J.J. MASSA, NEW YORK
BOBBY BRIGHT, ALABAMA
SCOTT MURPHY, NEW YORK
DAN BOREN, OKLAHOMA

HOUSE COMMITTEE ON ARMED SERVICES

U.S. House of Representatives

Washington, DC 20515-6035

ONE HUNDRED ELEVENTH CONGRESS

March 11, 2010

HOWARD P. "BUCK" McKEON, CALIFORNIA
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MAC THORNBERRY, TEXAS
WALTER B. JONES, NORTH CAROLINA
W. TODD AKIN, MISSOURI
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TODD RUSSELL PLATTS, PENNSYLVANIA

ERIN C. CONATON, STAFF DIRECTOR

The Honorable Barack Obama
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear Mr. President:

We were gratified to hear during the State of the Union message of the First Lady's efforts "to forge a national commitment to support military families." As she pointed out in January in her address to military wives, that national commitment is not only reflected in the \$8.8 billion you have requested for military family programs in your fiscal year 2011 defense budget, but also must be accompanied by the efforts of citizens and others outside the Department of Defense.

However, we believe that the process now underway for the 2010 Census will jeopardize the ability of states and local communities to help forge and fully participate in that national commitment. The problem arises in the way that the 2010 Census will count the 250,000 or more military personnel temporarily deployed overseas from the United States and its territories in support of contingency operations, or for other short-term missions. This is not a question of adding additional money to state and local programs, but rather an effort to ensure outdated rules do not inhibit the ability of states and local communities to support military families as a result of the loss of funds they would normally have been eligible for in other than census years. We believe the matter deserves your immediate attention and corrective action.

Under rules established in 1970, all military personnel stationed overseas will be counted among the totals of the state of their home of record – that is, the place from which they entered the military service, or re-enlisted in the service. If a home of record is not available in Department of Defense administrative records, then the service member will be counted in the state of his or her legal residence; and, if neither of the first two data elements is available, then the overseas service member will be counted in the state of the base of his or her last duty station. In most cases that means the base or location from which the service member deployed overseas.

These counting rules may have made sense in 1970 for the Vietnam-era military that was heavily composed of draftees. Such allocation rules do not make sense today for the all-volunteer

force that is heavily and frequently deployed, causing the military populations residing on those bases, the local areas around those bases, and states to be severely, but temporarily reduced. For example, in November 2009, the North Carolina population, concentrated largely around Camp Lejeune and Fort Bragg, shrank by nearly 28,000 service members temporarily deployed on contingency operations. No state or territory or local areas near a military base is exempt from such reductions.

Many federal and state assistance programs use formulas based on the decennial census or derivatives from the decennial census data. As a result, military overseas population data based on the home of record deprives the state and local areas, where those service members actually live most of the time, of potentially large sums of federal and state funding. Reduced funding means that those local communities and states will have a reduced ability to support the military populations with which they are inextricably linked. For example, a recent estimate of the impact in Onslow County, North Carolina, near Camp Lejeune, cited potential losses of up to \$4 million under current decennial census rules for counting military personnel stationed overseas.

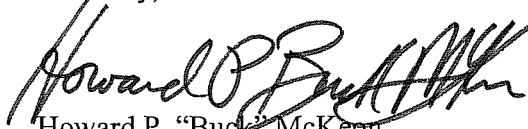
Given the potential for similar significant financial impacts across the nation, we urge you to direct the Secretary of Commerce, the Secretary of Defense, and the Director of the United States Census to take the necessary administrative actions to adopt for the 2010 and future decennial censuses the following method of counting our military men and women, who are temporarily deployed from the United States to overseas contingency missions, or other short term overseas assignments: Such persons must be counted, first in the state of their most recent base of stateside assignment; then, if such data is not available, by their legal residence; and, finally, by their home of record.

We understand that there are many issues related to residency and census counting. These can and should be examined over the long term. In the near term, the resolution of those issues should not be tied to the immediate need to address the ability of states and local communities to join the national commitment to support military families.

Therefore, we look forward to assisting you in measures to ensure there is no loss of federal or state and local resources to assist local communities in maintaining and improving military family quality of life. We thus anticipate your favorable commitment to the course of action we have proposed.

We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard P. Buck McKeon", written over a horizontal line.

Howard P. "Buck" McKeon
Ranking Member

Cc: Secretary of Defense
Secretary of Commerce
Director of the United States Census

Kent Starks

Todd R Platts

Michael R Turner

Robert J Witten

Bill Shuster

Gregory R. Jones

Walter B. Jones

Charles H. Johnson

Doug Lamborn

Congress of the United States
Washington, DC 20515

March 31, 2010

The Honorable Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

We are writing to express our concern that the 2010 Census will jeopardize North Carolina's ability to be fairly counted. The problem is the way the 2010 Census will count the more than 33,000 military personnel temporarily deployed overseas from North Carolina. Please do not penalize the communities that these men and women rely on when they are stateside. We believe the matter deserves your immediate attention and corrective action.

Under rules established in 1970, military personnel stationed overseas are counted by the state of their home of record – that is, the place from which they entered military service, or re-enlisted in the service. If a home of record is not available in the Department of Defense records, the service member will be counted in the state of his or her legal residence; and, if neither of the first two data elements are available, then the overseas service member will be counted in the state of the military base of his or her last duty station. In most cases that means the base or location from which the service member deployed overseas.

These rules may have made sense for the Vietnam-era military that was heavily composed of draftees. But they do not make sense for today's all-volunteer force that is frequently deployed, causing the military populations residing on and around bases to be severely, but temporarily, reduced. For example, in November 2009, North Carolina's military population shrank by nearly 28,000 service members who were temporarily deployed overseas.

Many federal and state programs use formulas tied to the decennial census. As a result, counting deployed military personnel based on current census rules will deprive military communities, where those service members actually live most of the time, of funding they are rightly entitled to. Reduced funding means North Carolina's military communities' ability to support their military populations is compromised. For example, a recent estimate of the impact in Onslow County, North Carolina, home of Marine Corps Base Camp Lejeune, cited potential losses of up to \$4 million annually.

Given the potential for similar significant financial impacts in the North Carolina communities around Fort Bragg, Pope Air Force Base, Seymour Johnson Air Force Base, and MCAS Cherry Point, we urge you as Commander in Chief to direct your administration to change the method of counting military personnel who are temporarily deployed outside the United States to the following: Such persons must be counted, first in the state of their most


recent base of stateside assignment; then, if such data is not available, by their legal residence; and finally, by their home of record.

On behalf of North Carolina's military communities, we thank you for your consideration of this urgent request and look forward to your favorable commitment to the course of action we have proposed.

Sincerely,


Rep. Walter B. Jones (NC-3)


Rep. Howard Coble (NC-6)



Rep. Mel Watt (NC-12)



Rep. G.K. Butterfield (NC-1)


Rep. Mike McIntyre (NC-7)

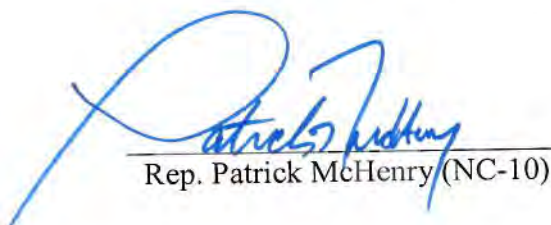

Rep. Sue Myrick (NC-9)


Rep. Virginia Foxx (NC-5)


Rep. David Price (NC-4)


Rep. Brad Miller (NC-13)


Rep. Larry Kissell (NC-8)


Rep. Patrick McHenry (NC-10)



UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

May 25, 2010

The Honorable Walter B. Jones, Jr.
U.S. House of Representatives
Washington, DC 20515

Dear Representative Jones:

Thank you for your letter to President Obama concerning the counting of overseas military personnel in the 2010 Census. The President asked me to respond to your concerns.

The current order of priority for determining the home State of overseas military personnel was established by the Census Bureau for use in 1990 Census and was based on discussions with Congress and the Department of Defense at that time.

In 1990 the U.S. House of Representatives considered a bill (H.R. 4903) requiring the inclusion of overseas military personnel and their dependents in the apportionment population and mandating the use of "home of record." H.R. 4903 passed the House of Representatives in June 1990. A similar proposal (S. 2675) was referred to the appropriate Senate committee for consideration, but it was not acted upon. A June 1990 Congressional Research Service report found that "home of record" most closely resembled the State-by-State distribution of the resident military population. The Congressional Research Service report further stated that an allocation of the Federally-affiliated overseas population by legal residence varied from the resident military population distribution by three times as much as "home of record." The last duty station varied from the resident population distribution by ten times as much.

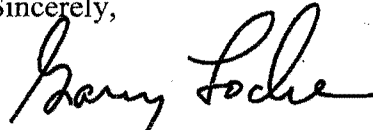
Therefore, in response to the strong congressional support for the use of "home of record" data, the Census Bureau decided to use those data—supplemented by legal residence and last duty station for missing information—as the basis for including overseas military and their dependents living with them in the 1990 and 2000 apportionment counts. For the 2010 Census, the Census Bureau decided in January 2007 that it would continue the 1990 and 2000 method of counting Federally-affiliated overseas personnel in the apportionment counts.

The Honorable Walter B. Jones, Jr.
Page 2

As you know, the decennial census is the largest domestic mobilization that our country undertakes. Planning for this undertaking requires years of testing and coordination. It is too late in the process to consider changing the plan for counting overseas military personnel in the 2010 Census; however, we will revisit these issues as we begin planning for future decennial censuses.

Thank you for your inquiry. If we can be of further assistance, please contact April Boyd, Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482-3663.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Locke". The signature is fluid and cursive, with the first name "Gary" and the last name "Locke" clearly distinguishable.

Gary Locke



1168703
UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

Alexander
Baker
Baker

April 7, 2010

The Honorable Beverly Eaves Perdue
Governor of North Carolina
Raleigh, NC 27699-0301

Dear Governor Perdue:

Thank you for your letter proposing that the U.S. Census Bureau to reverse the order of priority for determining the count of deployed armed service members by using the member's last military base of deployment.

The Census Bureau established the order of priority for determining overseas military personnel's home state for use in the 1990 Census. This order resulted from discussions with Congress and the Department of Defense at that time.

In 1990 a bill requiring the inclusion of overseas military personnel and dependents in the apportionment population (H.R. 4903) mandated the use of home of record. That bill passed the House of Representatives in June 1990, and a similar proposal (S. 2675) was referred to the appropriate Senate committee for consideration.

A June 1990 Congressional Research Service (CRS) report found home-of-record data most closely resembled the state-by-state distribution of the resident population. The CRS report further stated that allocating the federally affiliated overseas population by legal residence varied from the resident population distribution by three times as much as home of record. Allocating by last duty station varied from the resident population distribution by ten times as much.

In response to the strong Congressional support for the use of home-of-record data, the Census Bureau decided to use those data as the basis for including overseas military and dependents in the 1990 and 2000 apportionment counts. Legal-residence and last-duty-station data were supplemented for missing information.

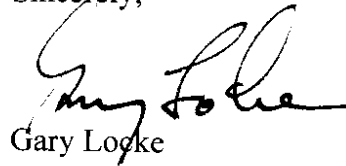
For the 2010 Census, the Census Bureau decided in January 2007 to repeat the 1990 and 2000 method of counting federally affiliated overseas personnel in the apportionment counts.

As you know, the decennial census is the largest peacetime mobilization that our country undertakes. Planning for this once-a-decade civic procedure requires years of testing and coordination. While it is too late in the process to consider such a change for the 2010 Census, we will consider revisiting the issue as we begin planning for the 2020 Census.

The Honorable Beverly Eades Perdue
Page 2

If you have any questions, please have a member of your staff contact Louisa F. Miller, Assistant Division Chief for Census Programs with the Population Division of the U.S. Census Bureau. Ms. Miller can be reached at (301) 763-2481.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Locke". The signature is fluid and cursive, with the first name "Gary" and last name "Locke" clearly distinguishable.

Gary Locke

Reaction & Results

The Complete Count Committee Work

Military Enumeration Campaign

- Inclusive: You are a part of our community
- This is where you should fill out your form



The Complete Count Committee Work

Military Enumeration Campaign

- Trusted Voices Giving Signals
- Jacksonville City Calendar



The Complete Count Committee Work

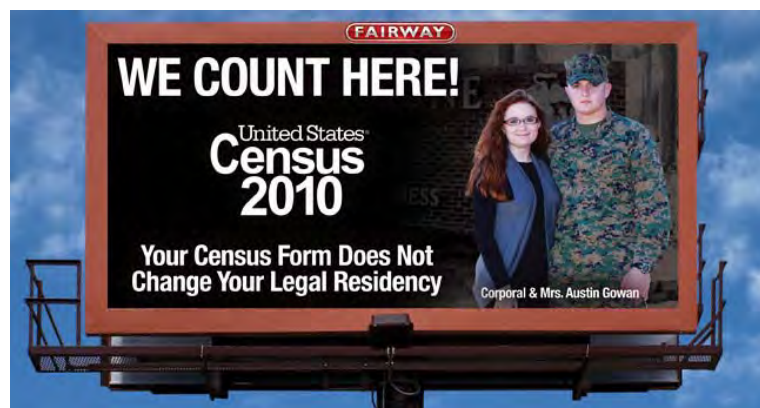
Military Enumeration Campaign

- Military Growth Task Force Support

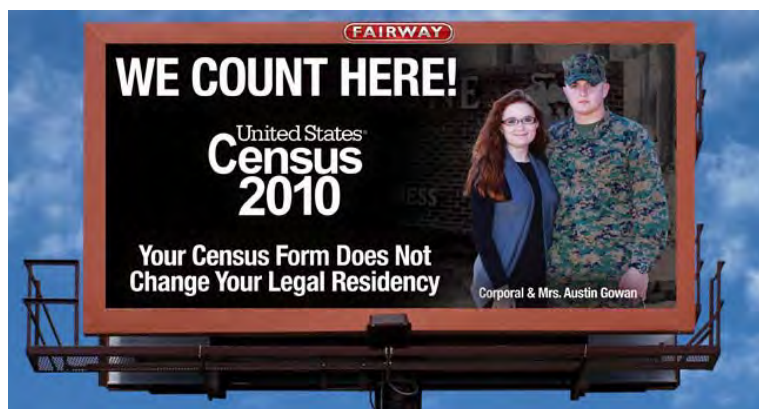
- Billboards
- Globe Placements
- Daily News Placements



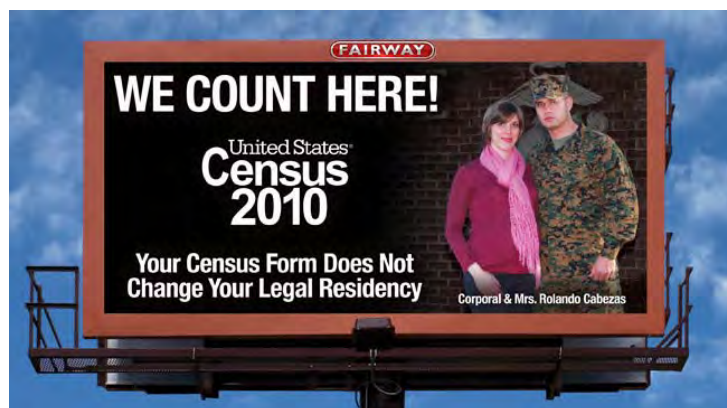
Military Enumeration Campaign



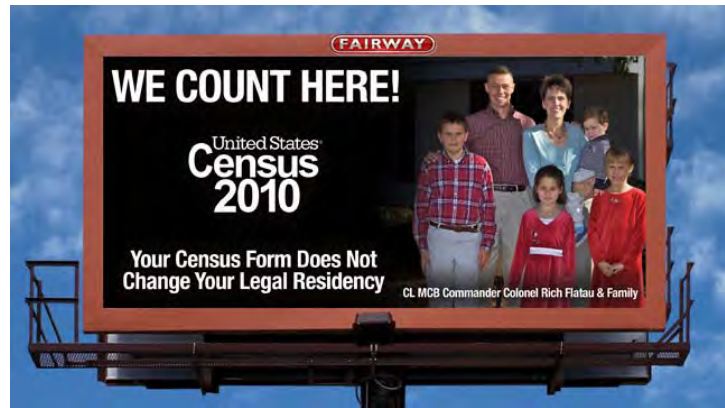
Military Enumeration Campaign



Military Enumeration Campaign



Military Enumeration Campaign



July 20, 2015

Karen Humes
Chief, Population Division
U.S. Census Bureau, Room 5H174
Washington, DC 20233

Transmitted electronically only: POP.2020.Residence.Rule@census.gov

Dear Ms. Humes:

We are submitting these comments on behalf of the American Civil Liberties Union of Wisconsin (ACLU-WI), the Benedict Center, the Justice Initiatives Institute (JII), the NAACP – Milwaukee Branch, and WISDOM, in response to the Census Bureau’s request for comment on its proposed “2020 Decennial Census Residence Rule and Residence Situations,” 80 Fed.Reg. 28950 (May 20, 2015).

We urge you to count incarcerated people at their home addresses, rather than at the addresses of particular facilities at which they happen to be located on Census day.

Our Wisconsin-based organizations are all concerned about ensuring fair representation for persons and communities of color, about protecting the rights of incarcerated persons, and about reforming the criminal justice system to achieve more equity and justice.

- The **American Civil Liberties Union of Wisconsin** is the Wisconsin affiliate of the national ACLU¹ and is a non-profit, non-partisan, private organization. The ACLU-WI uses advocacy, education, and litigation to preserve and extend constitutionally guaranteed rights to people who have historically been denied their rights on the basis of race, to protect and expand Americans’ freedom to vote, and to end mass incarceration by reducing the use of the criminal justice system to address social issues and by substantially reducing the number of people behind bars.
- The **Benedict Center** is an interfaith, nonprofit criminal justice agency in Milwaukee, working with victims, offenders and the community to achieve a system of justice that is fair and treats everyone with dignity and respect. It provides community-based treatment alternatives to incarceration for women so they can live safer and healthier lives for themselves, their children and the community, and advocates for changes in the criminal justice system, with an emphasis on restorative community alternatives to imprisonment, to ensure fair and equitable justice for all.
- The **Justice Initiatives Institute** is a Milwaukee-based private, non-profit agency, the first of its kind in Wisconsin, dedicated to promoting criminal justice reform based on

¹ The American Civil Liberties Union submitted separate comments to the Census Bureau, reflecting the work of ACLU nationwide to ensure population counts that accurately represent our communities.

evidence-informed planning, organized to provide knowledge and technical assistance for criminal justice stakeholders in communities throughout the State of Wisconsin. JII seeks policy reforms, based on practices and research that are cost effective and promote public safety. JII's mission is based on a keen understanding of the intersection of criminal justice issues with the particular needs of the most impoverished, marginalized populations in Wisconsin. When districts with prisons receive enhanced representation, every other district in the state without a prison sees its votes diluted. And this vote dilution is even larger in the districts with the highest incarceration rates. Thus, the communities that bear the most direct costs of crime are therefore the communities that are the biggest victims of prison-based gerrymandering.

- The **NAACP- Milwaukee Branch** works on criminal justice issues in many ways, including seeking to eliminate harsh and unfair sentencing practices that are responsible for mass incarceration and racial disparities in the prison system, seeking to increase trust and public safety by advancing effective law enforcement practices, fighting for the restoration of the voting rights of formerly incarcerated people and the removal of barriers to employment, and resolving to end the war on drugs for its disproportionate collateral consequences that harm communities of color.
- **WISDOM** is a Wisconsin statewide network of interfaith organizations which includes 160 congregations, of 19 different faith traditions. It has strong concerns about the criminal justice system and over-incarceration, and which has built a strong group of formerly-incarcerated people who work collectively to increase the chances for successful re-entry. WISDOM strongly objects to having imprisoned people counted as members of communities where they have no voice and no connections. Since a disproportionate number of incarcerated people come from poor communities, the effect of the current system is to further weaken the neighborhoods that are already the most stressed, taking away resources and political power from those who have already been marginalized.

The need for change in the “usual residence” rule as it relates to incarcerated persons has been growing in recent decades, raising significant issues of census accuracy. As recently as the 1980s, the incarcerated population in the United States totaled fewer than one-half million persons. Since then, the number of incarcerated people has more than quadrupled, resulting in more than two million people behind bars. An even greater increase is found in Wisconsin, where a prison population of fewer than 5000 persons in 1978 was, by 2014, more than 22,000 persons.² Further, Wisconsin has, by far, the highest rate of incarceration for African-American

²“State Prison Population in Wisconsin,” prepared by Peter Wagner, Prison Policy Initiatives, based on Bureau of Justice Statistics, Corrections Statistics Analysis Tool (May 2014) (viewed 7/14/15 at: <http://www.prisonpolicy.org/graphs/incsize/WI.html>); “Adult Correctional Facility Populations - Male Population and Inflationary Costs, and Prison Contract Bed Funding,” Wisc. Legislative Fiscal Bureau Paper #235 (May 19, 2015) (viewed 7/14/15 at: <http://legis.wisconsin.gov/lfb/publications/budget/2015-17%20Budget/Documents/Budget%20Papers/235.pdf>)

men in the United States, with about 1 in 8 working-age African-American men behind bars.³ Wisconsin similarly leads the nation in incarceration of Native American men, with about 1 in 13 working age Native American men behind bars.⁴

By designating a prison cell as a residence in the 2010 Census, the Census Bureau set up a methodology that concentrated a population that is disproportionately male, urban, and African-American or Latino into just 5,393 Census blocks located far from the actual homes of incarcerated people. This methodology gives additional representation to communities in which incarcerated persons are housed – while at the same time these inmates generally cannot and do not vote and their interests are seldom represented in the communities in which they are counted for census purposes. Meanwhile, the communities from which these prisoners come, to which they are likely to return and with whose other residents they share policy interests are deprived of political representation. The disparity is so stark that, for example, the regional planning commission in the Milwaukee metropolitan area has to make special note of the fact that minority population concentrations outside the central city are due to incarceration.⁵

Four states (California, Delaware, Maryland, and New York) are taking a state-wide approach to adjust the Census' population totals to count incarcerated people at home, and more than 200 counties and municipalities all individually adjust population data to avoid prison gerrymandering when drawing their local government districts. Rather than continuing an unworkable ad hoc approach, the Census definition should be changed to ensure that all state and local governments are counting prisoners where they live, not where they are incarcerated.

We thank you for this opportunity to comment on the Residence Rule. Because we believe in a population count that accurately represents communities, we again urge you to count incarcerated people as residents of their home addresses.

³ “Wisconsin’s Mass Incarceration of African American Males: Workforce Challenges for 2013,” John Pawasarat & Lois M. Quinn (Employment and Training Institute - University of Wisconsin-Milwaukee, 2013) (viewed 7/14/15 at: <http://www4.uwm.edu/eti/2013/BlackImprisonment.pdf>)

⁴ *Id.*

⁵ “A Regional Housing Plan for Southeastern Wisconsin: 2035,” Southeastern Wisconsin Regional Planning Commission (March 2013) at p. 125 (attached).

Attachment for FN 5

PLANNING REPORT
NUMBER 54

**A REGIONAL HOUSING PLAN FOR
SOUTHEASTERN WISCONSIN: 2035**

Prepared by the

Southeastern Wisconsin Regional Planning Commission
W239 N1812 Rockwood Drive
P.O. Box 1607
Waukesha, WI 53187-1607
www.sewrpc.org

The preparation of this publication was financed in part through planning grants from the Federal Highway and Federal Transit Administrations, the U.S. Department of Transportation, and the Wisconsin Department of Transportation. The contents of this report do not necessarily reflect the official view or policy of the above agencies.

March 2013

Inside Region \$30.00
Outside Region \$45.00

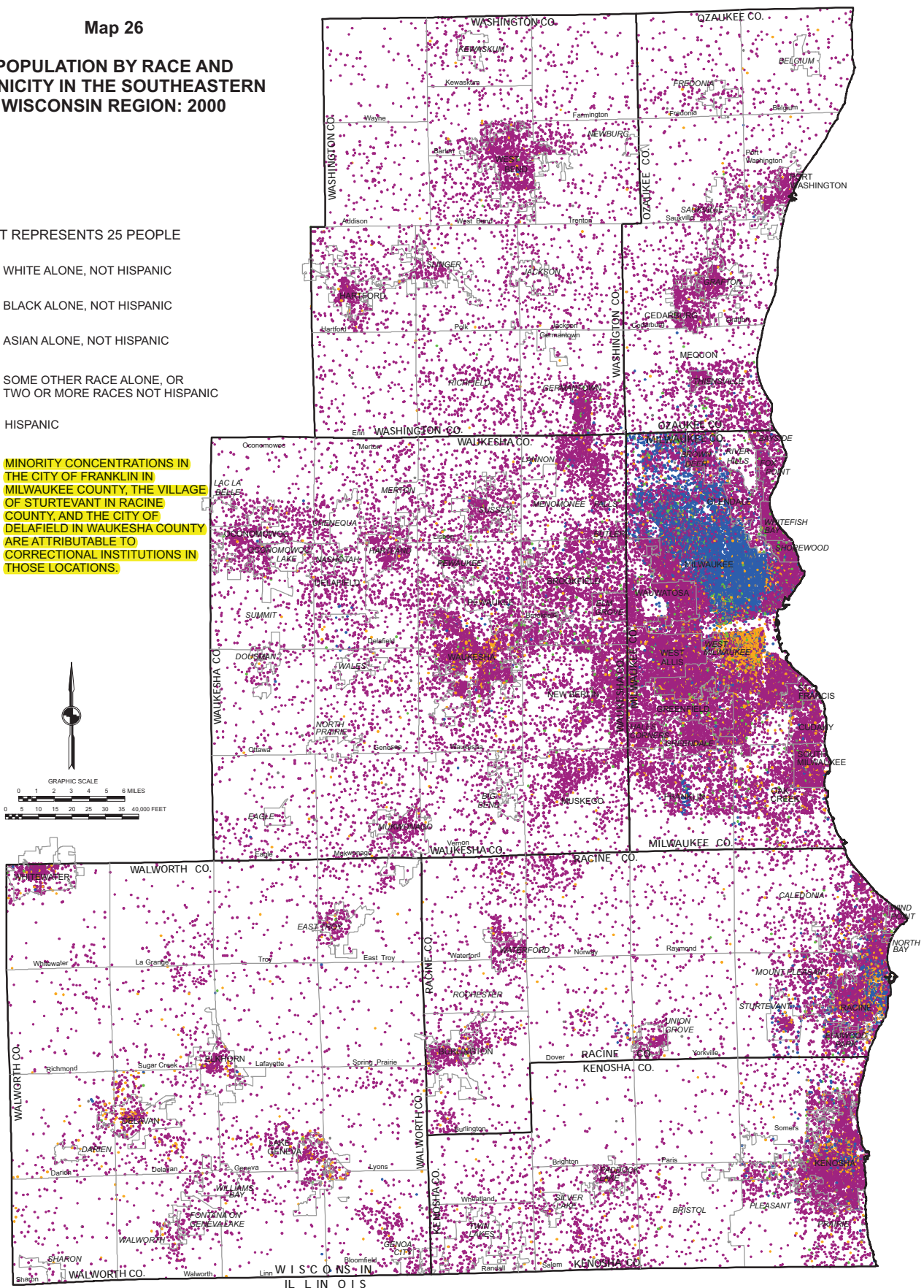
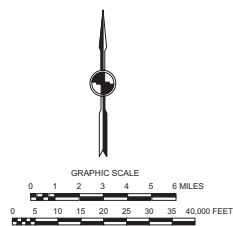
Map 26

POPULATION BY RACE AND ETHNICITY IN THE SOUTHEASTERN WISCONSIN REGION: 2000

1 DOT REPRESENTS 25 PEOPLE

- WHITE ALONE, NOT HISPANIC
- BLACK ALONE, NOT HISPANIC
- ASIAN ALONE, NOT HISPANIC
- SOME OTHER RACE ALONE, OR TWO OR MORE RACES NOT HISPANIC
- HISPANIC

NOTE: MINORITY CONCENTRATIONS IN THE CITY OF FRANKLIN IN MILWAUKEE COUNTY, THE VILLAGE OF STURTEVANT IN RACINE COUNTY, AND THE CITY OF DELAFIELD IN WAUKESHA COUNTY ARE ATTRIBUTABLE TO CORRECTIONAL INSTITUTIONS IN THOSE LOCATIONS.



Source: U.S. Bureau of the Census and SEWRPC.

PRISON POLICY INITIATIVE

PETER WAGNER

Executive Director
main: (413) 527-0845
direct: (413) 961-0002
pwagner@prisonpolicy.org
PO Box 127
Northampton MA 01027
www.prisonpolicy.org
www.prisonersofthecensus.org

July 20, 2015

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."¹

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

¹ 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:

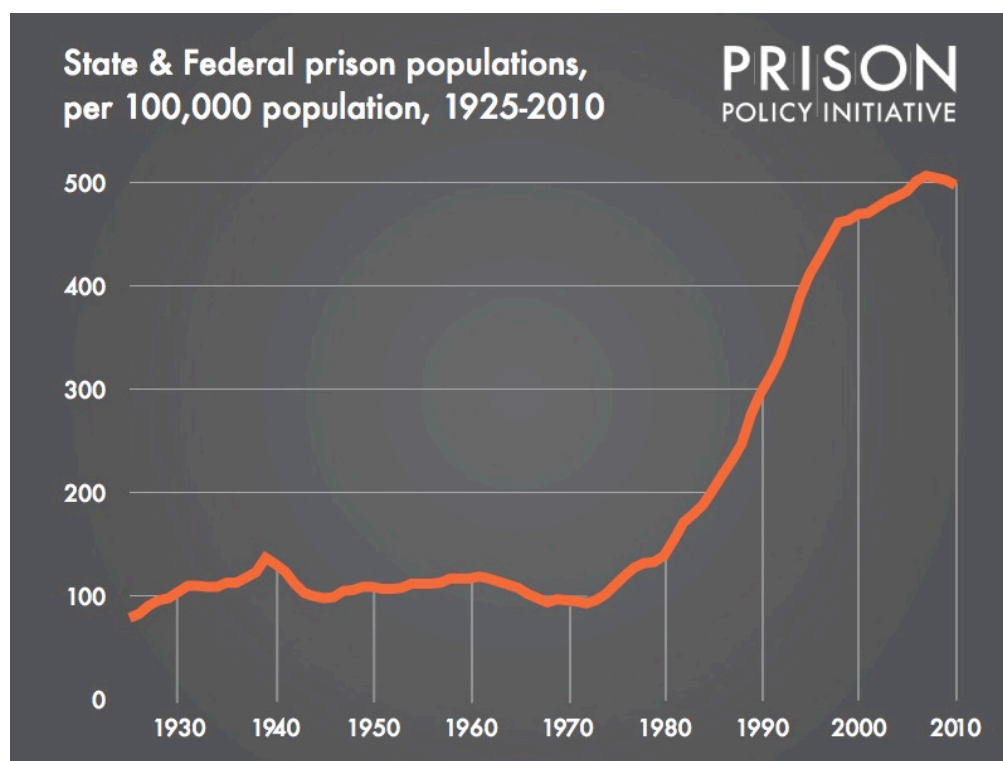


Figure 1. The 1990 Census was the first to register the beginning of mass incarceration. As a result of the Census Bureau's now outdated usual residence rule for incarcerated people, the 2010 Census counted a record portion of our population in the wrong location.

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.² (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.³)

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.⁴ 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.⁵

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:

² 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

³ 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>

⁴ 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>

⁵ 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

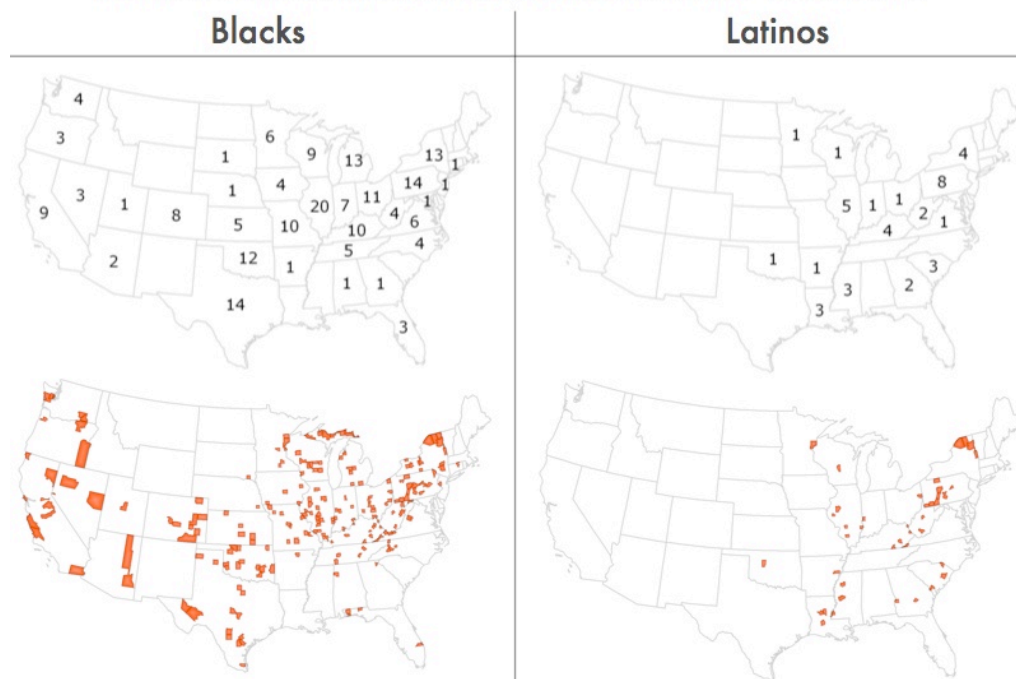


Figure 2. These maps shows where Blacks or Latinos are over-represented by at least 10 times in the prison population compared to the surrounding county. Many of the states without any counties marked on this map are states where counties are less relevant as a unit of analysis (ie. Massachusetts and 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.⁶

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

⁶ 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.⁷

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.⁸
- In Maryland, one state house district in western Maryland drawn after the 2000 Census drew 18% of its population from a large prison complex.⁹ As a result, every four voting residents in this district were granted as much political influence as five residents elsewhere.¹⁰

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.¹¹ Similarly, in Connecticut, 75% of the state’s prison cells were in state house districts that were disproportionately White.¹²

⁷ 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).

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

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

¹⁰ *See id.*

¹¹ 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/>.

¹² *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.

- 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.¹³ 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."¹⁴

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.¹⁵ 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.¹⁶ 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.¹⁷

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."¹⁸ This gave every group of three residents in District 1 as much say in county affairs as twenty-five residents in other districts.¹⁹
- Half of one city ward in Rome, New York, drawn after the 2000 Census, was incarcerated,²⁰ 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.²¹

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

¹⁴ *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>).

¹⁵ *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/>.

¹⁶ 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>.

¹⁷ *See id.*

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

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

²⁰ 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>.

²¹ *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,²² and Juneau County drew a district after the 2010 Census that was 80% incarcerated.²³
- 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.²⁴

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.²⁵ 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

²² *Prison-Based Gerrymandering in the City of Waupun, WI*, (Mar. 16, 2011), 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>.

²³ 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.

²⁴ 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; 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.

²⁵ 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.²⁶ 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 Colorado²⁷, Michigan²⁸, and New Jersey²⁹ 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.³⁰

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

²⁶ 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/>

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

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

²⁹ 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.

³⁰ 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.³¹

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"³² 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 letter³³ 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.³⁴

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

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

³² Minn. Stat. Ann. § 645.44(8)

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

³⁴ 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....”³⁵

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.”³⁶

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”³⁷ 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 2011.³⁸

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

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

³⁶ Available at http://www.prisonersofthecensus.org/resolutions/NAACP_2010.html

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

³⁸ 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 cluster³⁹ 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.

³⁹ 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.

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.¹ 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.²

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.³

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:

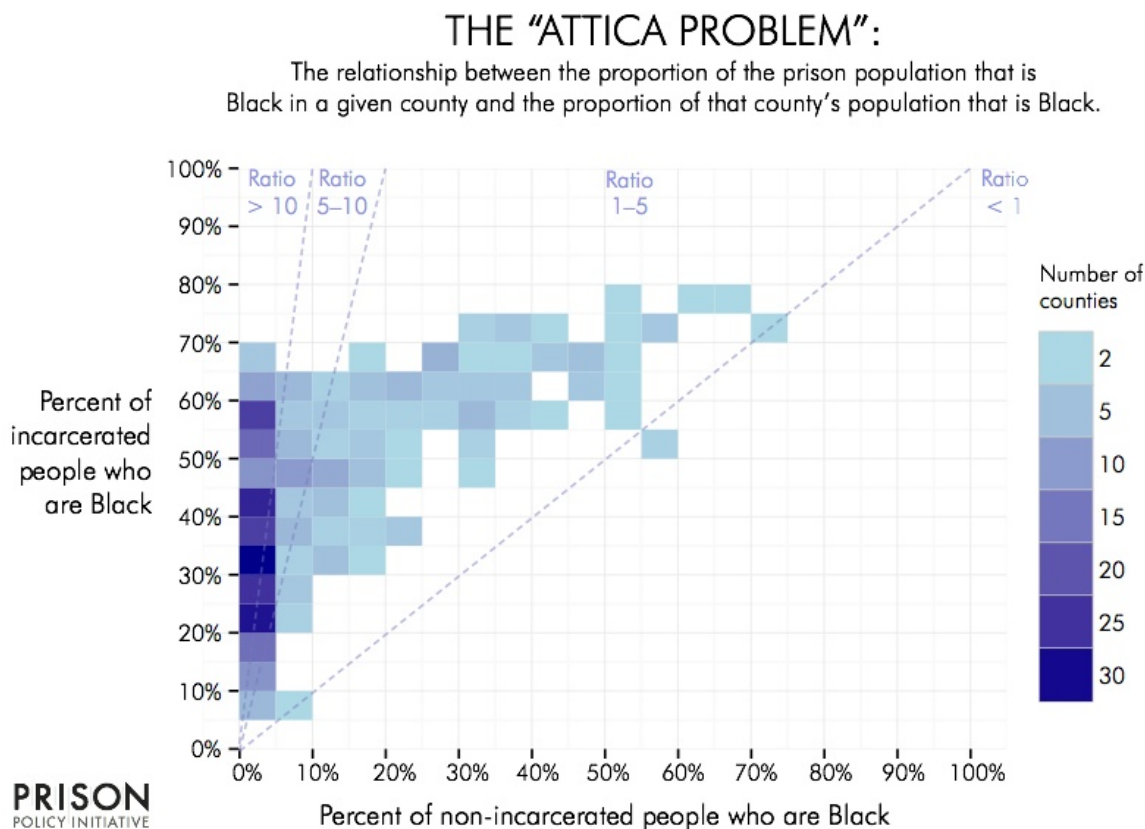


Figure 1. This chart shows that in many counties Black people in prison are overrepresented compared to the portion of Black people in the free population. Notably, many of these counties are concentrated in the far left of the graph; where Blacks make up 20% to 60% of the prison populations yet less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

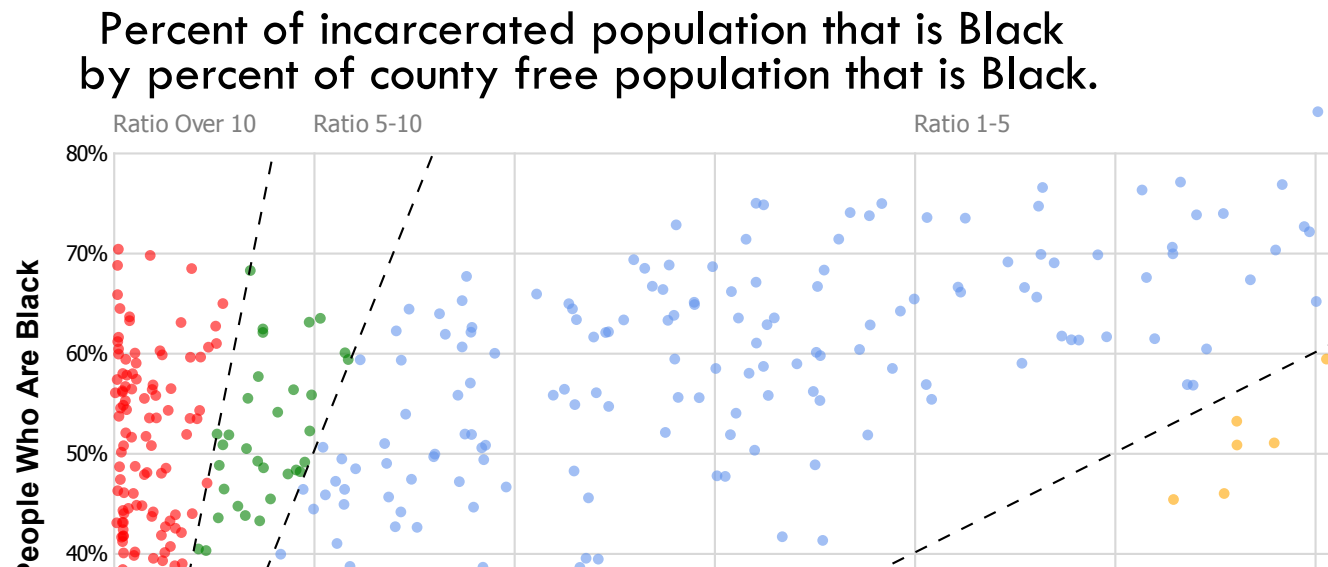
have a ratio over 1, and 208 counties have ratios of over 10. A ratio of at least 10 means that the portion of the prison that is Black is at least 10 times larger than the portion of the surrounding county that is Black. For example, Martin County, Kentucky has a ratio of 529, because the 884 incarcerated 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:



To explore whether the counties with the most dramatic racial 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 Blacks are more likely to be locked up in communities very different than their home communities in states such as Wisconsin, and least likely in states such as

Blacks are more likely to be locked up in communities very different than their homes in states such as Michigan or Wisconsin

Figure 4. Ranking of states by greatest median disparity between incarcerated Blacks and non-incarcerated Blacks, showing only 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 Appendix B: Percentiles of County Ratios by State for Blacks.) And for an alternative way to approach this idea of ranking states, see Appendix D: Portion of each state's incarcerated population that is incarcerated in disproportionately White counties. For the raw data behind this analysis, see methodology and Appendix A: Counties.

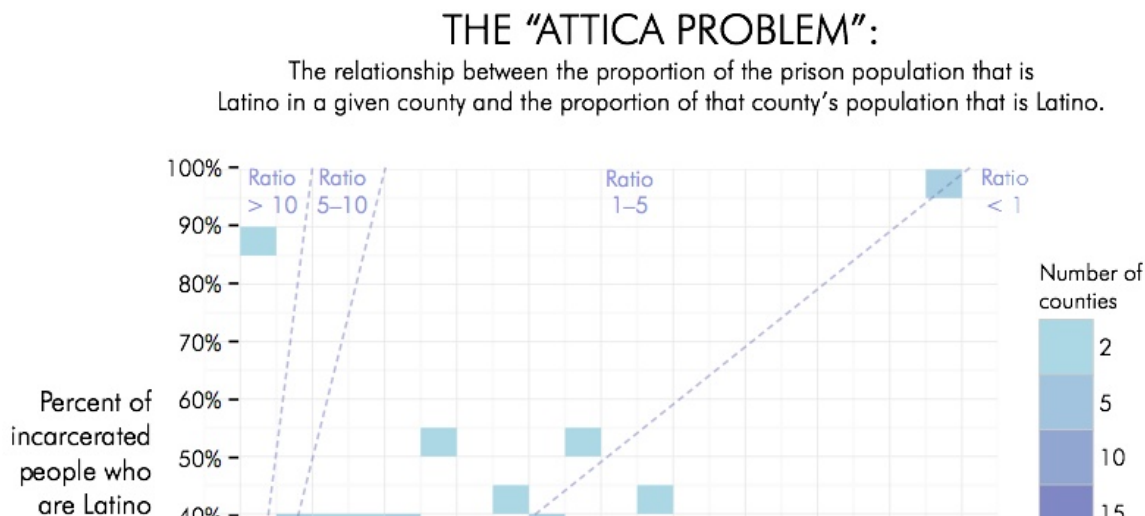
State (Number of Counties Analyzed)	Median Ratio of the percentage of each county's incarcerated population that is Black to the percentage of each county's free population that is Black.
Michigan (16)	120.0
Wisconsin (10)	78.5
Pennsylvania (15)	38.7
New York (16)	32.0
Illinois (23)	31.5
Ohio (13)	24.8

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.⁴

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.¹⁰ 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:



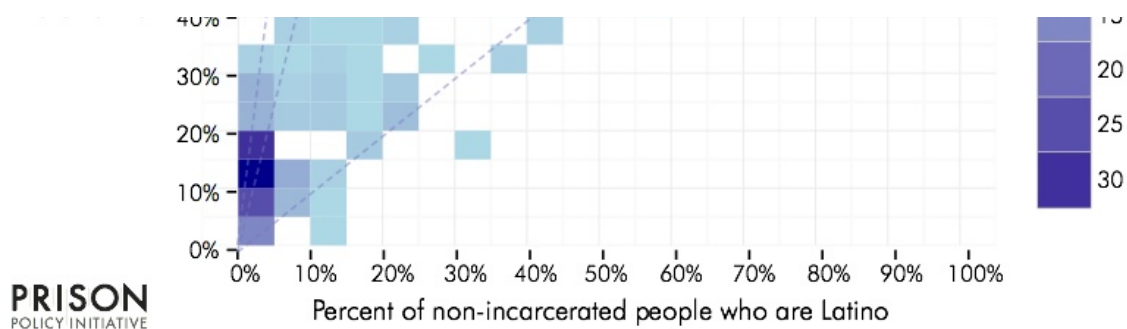


Figure 5. This chart shows that in many counties Latino people in prison are overrepresented compared to the portion of Latino people in the free population. (The outliers on the top right are a Municipality (county) in Puerto Rico and two in Texas, and the outlier counties on the top left are Stewart 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.

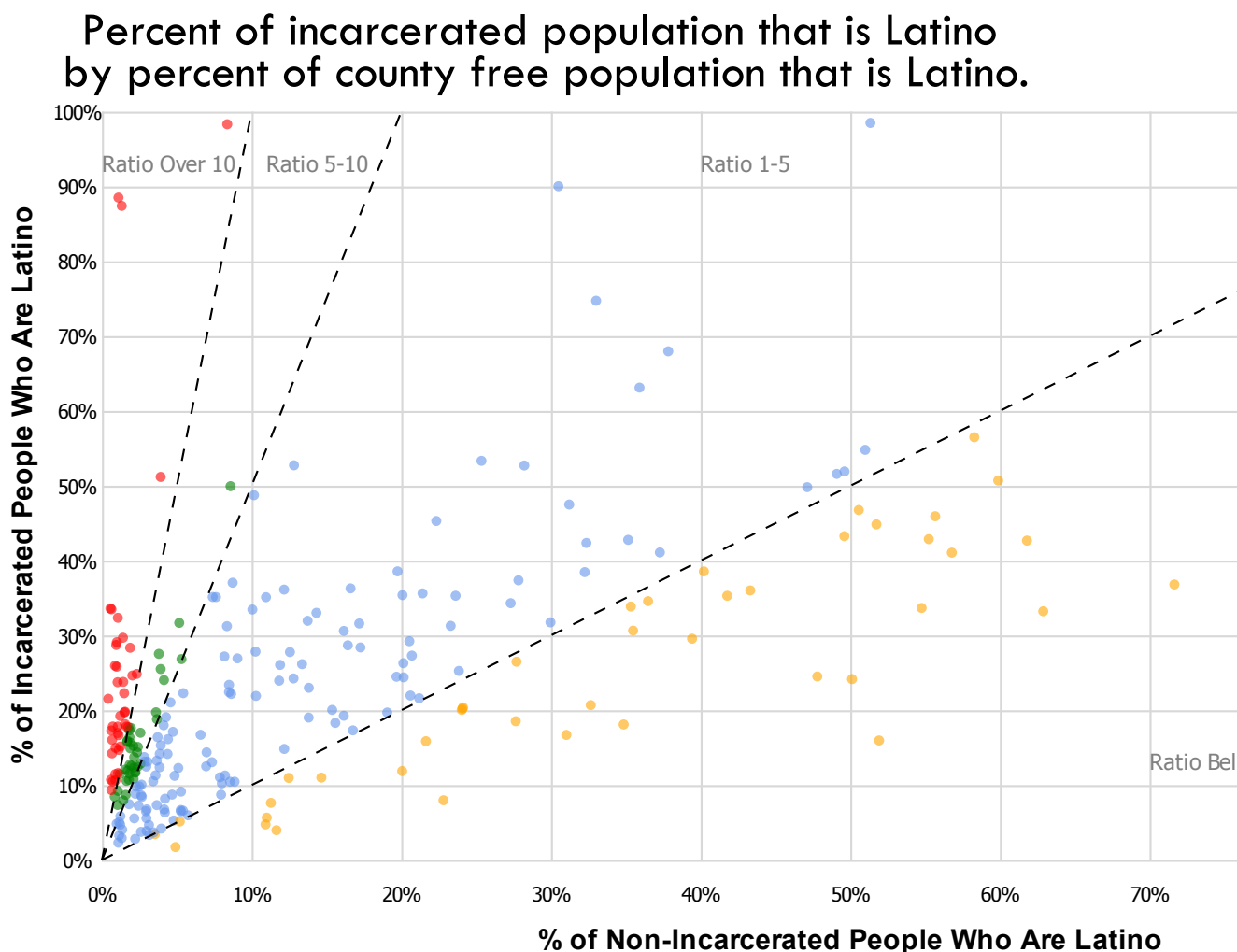


Figure 7. This interactive chart shows the percentage of each county's incarcerated and free populations that are Latino. Click on a dot for the name of the county and the total numbers.

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

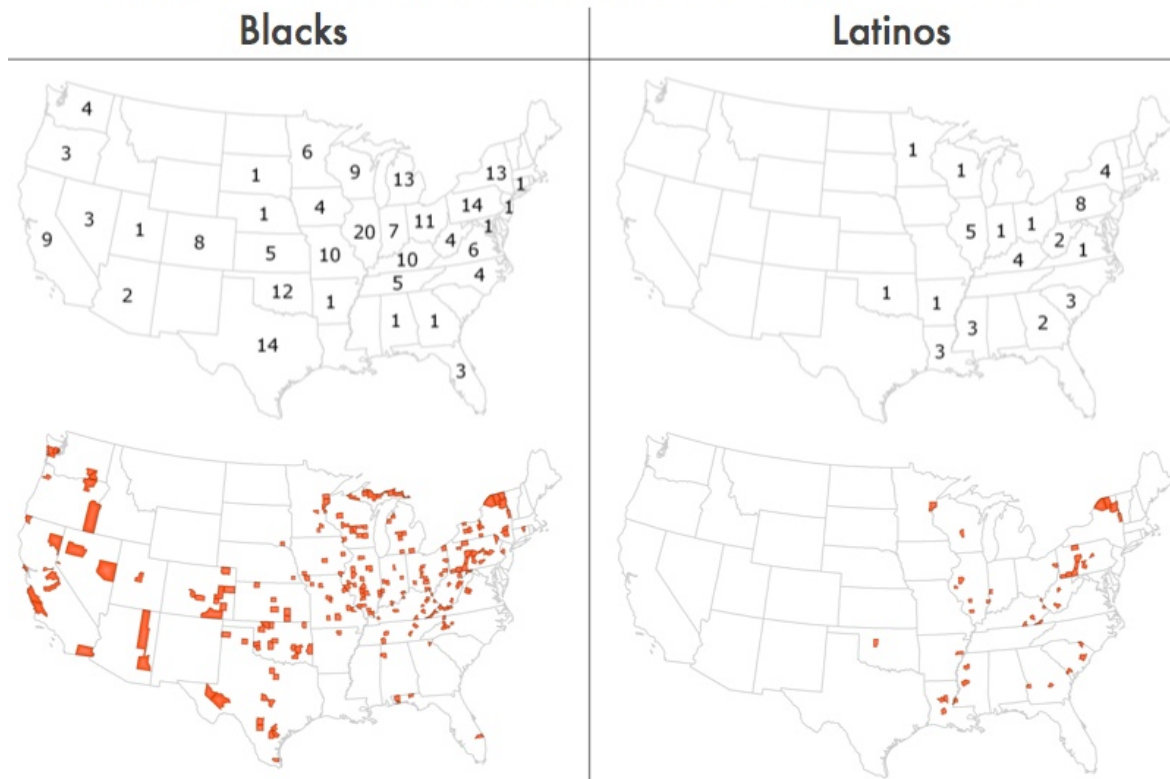


Figure 9. These maps shows where Blacks or Latinos are over-represented at least 10 times in the prison population compared to the surrounding county. Many of the states without any counties marked on this map are states where counties are less relevant as a unit of analysis (ie. Massachusetts and Rhode 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.⁵)
- 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 high⁶, 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**⁷
- 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**⁸
- **White alone not Hispanic or Latino**⁹

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*

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. ↵



Karen Humes, Chief
Population Division
U.S. Census Bureau
Room 5H174
Washington, DC 20233

July 20, 2015

Comment: Residence Rule and Residence Situations , 80 FR 28950 (May 20, 2015)

Dear Ms. Humes:

Dēmos appreciates the opportunity to submit 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).

Dēmos is a national public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy. Dēmos has been working with state and national groups, redistricting experts, and other stakeholders for nearly a decade to support reform of the Bureau's "usual residence" rule as it applies to incarcerated persons. Dēmos also has served as counsel or co-counsel in many of the legal actions described in this comment.

The Bureau's existing residence rule, as it applies to incarcerated persons, results in serious distortions in how our nation's population is reflected and tabulated for redistricting purposes, and fails to reflect accurately the demographics of numerous communities throughout our country. Because of this outdated rule, some 2 million incarcerated people are being counted in the wrong place for purposes of redistricting, undermining the equal representation principle of the 14th Amendment to the U.S. Constitution. In particular, using this flawed data to draw local and state districts grants the people who happen to live near large prisons extra representation in government, at the expense of voters everywhere else in the jurisdiction.

NEW YORK

220 FIFTH AVE, 2ND FLOOR
NEW YORK, NY 10001
1.212.633.1405

WASHINGTON DC

1029 VERMONT AVE NW, SUITE 505
WASHINGTON, DC 20005

BOSTON

358 CHESTNUT HILL AVE, SUITE 303
BRIGHTON, MA 02135
1.617.232.5885

To end these distortions and inaccuracies – commonly referred to as “prison gerrymandering” – Dēmos urges the Bureau to revise its Residence Rule to tabulate incarcerated people at their home address, rather than at the particular facility where they happen to be present on Census day.

Dēmos has reviewed and fully endorses the factual background on this issue that is explained in the comment filed by the Prison Policy Initiative, with which we work closely on the issue of prison gerrymandering. To avoid duplication, we will not repeat that background here. Dēmos instead will use this comment letter primarily to discuss some of the insights revealed by past and recent litigation over the issue of prison gerrymandering, and how such litigation reinforces the wisdom of a change in the Census Bureau’s approach to tabulating incarcerated persons.

As background for this discussion, it is useful to refer to the U.S. Supreme Court’s 1992 decision in *Franklin v. Massachusetts*, 505 U.S. 788 (1992). In *Franklin*, the Supreme Court upheld the Census Bureau’s authority and decision to change its method of determining the residence of overseas military personnel. In that case, the Census Bureau advocated for a flexible interpretation of the usual residence rule, arguing that: “[i]t is far too late in the Nation’s history to suggest that enumeration of the population of the States must be based on a rigid rule of physical presence on the census date.”¹

In its *Franklin* ruling, the Supreme Court upheld the Census Bureau’s change in the residence rule so as to count military personnel at their “home of record”. The Court distinguished “usual residence” from mere physical presence, noting that the former “has been used broadly enough to include some element of allegiance or enduring tie to a place.” 505 U.S. at 804. *Franklin* supports the Census Bureau’s authority to change the manner in which it applies its residence rule to particular populations in response to changes in social and demographic factors affecting the rule’s application. In recent years, the Bureau’s current rules on tabulation of incarcerated persons have also proven to be outdated and to require change.

¹ Brief for the Appellants at 17, *Franklin v. Massachusetts*, 505 U.S. 788 (1992) (No. 91-1502), cited in Kirsten D. Livingston & Christopher Muller, Brennan Center for Justice at NYU School of Law, “Home” in 2010: A Report on the Feasibility of Enumerating People in Prison at Their Home Addresses in the Next Census 9 (Feb. 15, 2006), <https://www.brennancenter.org/publication/home-2010>.

Reform laws in New York and Maryland

The inadequacies of the Bureau's current counting rules with respect to incarcerated persons are reflected in the decision of four states, thus far, to reject the Bureau's population data on incarcerated persons, and to require instead that incarcerated persons be tabulated as residents of their pre-prison home addresses. New York, Maryland, California, and Delaware have all enacted legislation requiring this change.² New York and Maryland implemented this change with respect to their states' redistricting after the 2010 Census, while California and Delaware will implement this new approach in response to the 2020 Census. The experiences of Maryland and New York in implementing their reform laws for the 2010 round of have been reviewed and analyzed in a report prepared for Demos by Erika L. Wood, Professor of Law at New York Law School.³

In both New York and Maryland, the reform laws withstood legal challenges. New York's reform law was challenged on state constitutional grounds and was upheld in 2011.⁴ Demos served as co-counsel for individuals and organizations who intervened in the lawsuit to defend the reform. In Maryland, the reform law that counted incarcerated people at their home address in the post-2010 redistricting process came under a federal constitutional challenge. Dēmos, along with the ACLU of Maryland, the Maryland and Somerset County NAACP, the Howard University Civil Rights Clinic, and the NAACP Legal Defense Fund, joined in filing an amicus brief to defend the constitutionality of Maryland's reform law. The three-judge district court agreed that Maryland's law requiring reallocation of incarcerated persons to their home address was fully consistent with the U.S. Constitution. On appeal of that ruling, the U.S. Supreme Court affirmed.⁵

Grappling with prison population in court-ordered plan in Kansas

A three-judge federal district court in Kansas also had to grapple with the distortions caused by application of the usual residence rule to incarcerated persons in 2012, when the Kansas legislature failed to agree on a state legislative redistricting plan. The unique concentration of state, federal and private prisons in the Leavenworth area in Kansas posed a problem for map-

² Cal. Elec. Code § 21003; 29 Del. Code § 804A; Md. Code Ann., Election Law § 8-704; Md. Code Ann., State Gov't, § 2-2A-01; N.Y. Legis. Law § 83-m(13)(b).

³ Erika L. Wood, *Implementing Reform: How Maryland and New York Ended Prison Gerrymandering*, August 15, 2014. The report is submitted as an attachment to this Comment, and is available at <http://www.demos.org/sites/default/files/publications/implementingreform.pdf>.

⁴ *Little v. LATFOR*, No. 2310-2011 (N.Y. Sup. Ct. Dec. 1, 2011).

⁵ *Fletcher v. Lamone*, 831 F. Supp. 2d 887 (D. Md. 2011) (three-judge court), *aff'd*, 133 S.Ct. 29 (2012).

drawers, because combining that population in one district would have meant that a substantial portion of that district would be made up of phantom constituents -- people who are from other parts of the state (or country) and who are not allowed to vote or interact with the community in any other way. The plan proposed by the Kansas House would have done precisely that, resulting in a district with 5,622 incarcerated persons and a population deviation of over 20%. This would have given every four residents of that district the political influence of 5 residents in any other district.⁶

The plan ultimately adopted by the federal district court ameliorated this problem by splitting the Leavenworth facilities among three different House districts instead of concentrating them into one.⁷ Nonetheless, this was still only a partial solution to the problem, because the federal court had no data on the actual home addresses of the persons incarcerated at the Leavenworth facilities, and thus could not assign them to their true residences.

Prison gerrymandering in Cranston, Rhode Island – a constitutional challenge

In 2014, a group of residents of Cranston, Rhode Island, along with the Rhode Island ACLU, filed a federal court challenge to an extreme instance of prison gerrymandering of the City Council and School Committee districts in Cranston, Rhode Island.⁸ Dēmos, the ACLU, and the Prison Policy Initiative are representing the plaintiffs in this case.

Following the 2010 Census, the City of Cranston redrew the districts used to elect City Council and School Committee members. Cranston houses Rhode Island's only state prison complex, the Adult Correctional Institutions ("ACI"). The ACI contains an incarcerated population of 3,433.⁹

During the public discussions leading up to Cranston's 2012 redistricting, the members of the City Council were confronted with the question of how and whether to count the incarcerated population of the ACI. At a public hearing on the proposed districting plan, the Council heard

⁶ Peter Wagner and Brenda Wright, "One Last Chance to Avoid Prison Gerrymandering in Kansas," May 28, 2012, http://www.prisonersofthecensus.org/kansas/one_last_chance.pdf.

⁷ *Essex v. Kobach*, 874 F. Supp. 2d 1069 (D. Kansas 2012) (three-judge court); see also Peter Wagner, "Federal Judges save Kansas from 'worst prison gerrymander' award," June 8, 2012, <http://www.prisonersofthecensus.org/news/2012/06/08/ks-court-maps/>

⁸ See *Davidson v. City of Cranston*, 42 F.Supp.3d 325 (D. R.I. 2014).

⁹ Declaration of William Cooper, *Davidson v. City of Cranston*, Civil Action No. 1:14-cv-00091-L-LDA, April 30, 2015, ¶ 23.

testimony as to the severe distortions that would be created by counting all of the inmates of the ACI in a single ward.¹⁰ In spite of this, the Cranston City Council approved a districting plan that includes the prison population in its base population count and counts the entire population of the only state correctional facility in Rhode Island in a single ward—Ward 6.

Without the incarcerated population, Ward 6 includes only 10,227 residents, compared with 13,000-14,000 persons making up each of the other five city wards. Thus, persons involuntarily incarcerated in the ACI—who are in no sense true “residents” of Ward 6—constitute almost a quarter of the population counted toward Ward 6’s population total. This results in an actual maximum population deviation among all Cranston wards of approximately 28%.¹¹

Put differently, because Ward 6 has significantly fewer actual residents than any of the other five wards, three Ward 6 constituents enjoy more representation and political power in City government than four similar people across the district line.

In response to the filing of plaintiffs’ one person, one vote challenge to the City of Cranston’s districting plan, the City filed a motion to dismiss the complaint, arguing that because the City relied upon U.S. Census Data, the inclusion of the incarcerated population is not subject to constitutional challenge. The District Court disagreed, and explained its reasoning as follows:

[T]he case now before this Court presents an alleged set of circumstances that appears to be justified by neither the principle of electoral equality nor of representational equality. Clearly, the inclusion of the ACI prison population is not advancing the principle of electoral equality because the majority of prisoners, pursuant to the State’s Constitution, cannot vote, and those who can vote are required by State law to vote by absentee ballot from their pre-incarceration address. Consequently, according to Plaintiffs, a full 25% of the population of Ward Six cannot vote in the Ward. . . .

Furthermore, if Plaintiffs’ allegations are true, the prisoners’ inclusion in Ward Six does nothing to advance the principle of representational equality. Nonvoting residents generally have a right to petition elected officials, even if they were not able to vote for them; and they may generally be presumed to have a great interest in the management

¹⁰ Deposition of Steven Brown, Davidson v. City of Cranston, Civil Action No. 1:14-cv-00091-L-LDA, February 25, 2015, 8:4-8:20.

¹¹ Supplemental Declaration of William Cooper, Davidson v. City of Cranston, Civil Action No. 1:14-cv-00091-L-LDA, June 15, 2015, Exh. A-1, Figure 5.

of their municipalities. This is true of minors, noncitizens, college students, and military and naval personnel. . . .

Based on Plaintiffs' allegations, it appears to the Court that the ACI population does not participate in any aspect of the City's civic life. According to Plaintiffs, they cannot send their children to school in Cranston; they cannot visit the City's parks; they do not pay taxes to the City; they do not drive on the City's roads. It is not clear from the information available to the Court at this juncture of the litigation that the prisoners at the ACI's inclusion in Ward Six furthers the Constitutional goals of either representational or electoral equality.¹²

The Court therefore denied the City's motion to dismiss and allowed the plaintiffs to proceed with discovery to flesh out the facts concerning the ACI population and its interaction, or lack thereof, with the community and City officials.

Subsequent discovery in *Davidson v. City of Cranston* has confirmed that the ACI population does not partake in the civic life of the community and is not represented by elected officials in Cranston in any meaningful sense. The overwhelming majority of persons incarcerated in the ACI are not domiciled residents in Ward 6, but remain residents of the communities where they lived prior to their incarceration.¹³ The median length of stay for individuals at the ACI is only 99 days.¹⁴ Incarcerated persons at the ACI did not choose where they would be incarcerated.¹⁵ They cannot voluntarily visit or patronize public or private establishments and cannot participate in the life of the Ward 6 community. Their children are not even permitted to attend Cranston public schools by claiming residence of the parent at the ACI.¹⁶ A significant proportion of ACI inmates are not eligible to vote in City or School Committee elections because they have been convicted of a felony.¹⁷ Those who can still vote typically cannot claim the ACI

¹² *Davidson v. City of Cranston*, 42 F.Supp.3d 325, 331-332(D. R.I. 2014).

¹³ Declaration of William Cooper, *Davidson v. City of Cranston*, Civil Action No. 1:14-cv-00091-L-LDA, April 30, 2015, ¶ 27; R.I. Gen. Laws § 17-1-3.1(a).

¹⁴ *Id.* ¶ 26.

¹⁵ Affidavit of Joseph A. Dinitto, *Davidson v. City of Cranston*, Civil Action No. 1:14-cv-00091-L-LDA, ¶ 4.

¹⁶ See Defendant's Response to Plaintiffs' First Set of Interrogatories, *Davidson v. City of Cranston*, Civil Action No. 1:14-cv-00091-L-LDA, Inter. No. 3.

¹⁷ Affidavit of Caitlin O'Connor, *Davidson v. City of Cranston*, Civil Action No. 1:14-cv-00091-L-LDA, ¶ 4.

as their domicile for voting purposes, but must instead vote by absentee ballot from their pre-incarceration domicile.¹⁸

Discovery in the case has now concluded, and no evidence has been produced that any elected official in Cranston has made campaign visits to the ACI to seek the electoral support of persons incarcerated there or to identify their needs and views about city governance. The City Councilor who represents Ward 6 acknowledged in his deposition that he is unable to identify any group of persons in Ward 6 that is more isolated from the rest of the community than the ACI population.¹⁹ The only correspondence prior to the lawsuit from anyone incarcerated at the ACI that the City could identify was a single letter in 2012, to which no one in city government apparently ever responded.²⁰

Cranston officials are by no means unique in this regard. One researcher conducted a survey of all of the members of the lower house of the Indiana state legislature, asking the following question:

Which inmate would you feel was more truly a part of your constituency?

- a) An inmate who is currently incarcerated in a prison located in your district, but has no other ties to your district.
- b) An inmate who is currently incarcerated in a prison in another district, but who lived in your district before being convicted and/or whose family still lives in your district.²¹

The results were uniform. “Every single one of the forty respondents who answered the question – regardless of their political party or the presence or absence of a prison in their district – chose answer (b).”²² *Id.* A similar survey of Maryland legislators also shows decisively

¹⁸ Deposition of Kimball Brace, Davidson v. City of Cranston, Civil Action No. 1:14-cv-00091-L-LDA, June 22, 2015, 87-90; R.I. Gen. Laws § 17-1-3.1(a).

¹⁹ Deposition of Michael Favicchio, Davidson v. City of Cranston, Civil Action No. 1:14-cv-00091-L-LDA, February 25, 2015, 41:16-41:20.

²⁰ Deposition of Allan Fung, Davidson v. City of Cranston, Civil Action No. 1:14-cv-00091-L-LDA, February 24, 2015, 51-52.

²¹ Taren Stinebrickner-Kauffman, Counting Matters: Prison Inmates, Population Bases, and “One Person, One Vote,” 11 Va. J. Soc. Pol’y & L. 229, 303 (2004).

²² *Id.*

that legislators view incarcerated persons as their constituents based on their home addresses, not based on the location of the prisons where they are incarcerated. The survey asked legislators who they would be more likely to consider a constituent: someone from their district who is incarcerated elsewhere, or someone who is from elsewhere but is incarcerated in their district. Again, virtually all legislators (92%) said they would be more likely to consider persons from their district who are incarcerated elsewhere to be their constituents.²³

As noted at the outset, the facts and legal rulings discussed in this Comment make up only a small part of the vast record of evidence that the Census Bureau's current residence rule, as applied to incarcerated persons, is outdated and no longer accurately reflects the population that it seeks to count. Dēmos urges the Census Bureau, in the 2020 Census, to tabulate incarcerated persons at their pre-prison home addresses.

Thank you very much for the opportunity to submit this Comment.

²³ Representative-Inmate Survey, Senate Education, Health, and Environmental Affairs Committee, Bill File: 2010 Md. S.B. 400 at 22-28. The Maryland researchers found similar results regardless of whether the legislator had a prison in his or her district. The survey also found that legislators are far more likely to receive communications from incarcerated persons whose home community is in their district than from persons who are incarcerated in a prison in the legislator's district.

Dēmos

IMPLEMENTING REFORM

*How Maryland & New York
Ended Prison Gerrymandering*

ERIKA L. WOOD

ASSOCIATE PROFESSOR OF LAW,
NEW YORK LAW SCHOOL

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demos.org

220 Fifth Avenue, 2nd Fl.
New York, NY 10001

Media Contact

EGRAY@DEMOS.ORG

212.633.1405 EXT. 551

About the Author

ERIKA L. WOOD is an Associate Professor of Law at New York Law School and Director of the Voting Rights and Civic Participation Project of the Impact Center for Public Interest Law. Prior to joining the faculty at NYLS, Professor Wood was Deputy Director of the Democracy Program at the Brennan Center for Justice. She is a frequent speaker and commentator on voting rights, criminal justice reform and racial justice issues.

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EXECUTIVE SUMMARY

In 2010 and 2011, Maryland and New York took bold steps to correct the problem known as prison gerrymandering, a problem resulting from the United States Census Bureau’s practice of counting incarcerated individuals as residents of their prison cells rather than their home communities. When legislative districts are drawn based on the census numbers, incarcerated individuals become “ghost constituents” of districts that contain prisons. Although in forty-eight states incarcerated individuals cannot vote, have no ties to the local community, are often hundreds of miles from home, and spend an average of just three years in prison, they are allocated to legislative districts in a way that artificially inflates the political power of the districts where the prisons are located, while their home communities—often predominantly poor and minority—suffer the inverse effects of losing representation and voting strength for a decade.

Although the Census Bureau did not change its practice of counting incarcerated individuals in prison on a national level for the 2010 census, Maryland and New York took responsibility for correcting this injustice in their states. In doing so, these two states not only conducted an important experiment in policy innovation, but also demonstrated how various state and local agencies can work together to successfully implement new and important policy reforms to alleviate the problem of prison gerrymandering.

The efforts and coordination by state policymakers, corrections officials, data experts, technicians, planning personnel and lawyers was exemplary and should serve as an inspiration to those across the country who want to take a stand to end this injustice. As a result of their efforts and for the first time in history, the legislative and local districts in Maryland and New York are no longer distorted by prison gerrymandering.

This report provides detailed information about the specific steps Maryland and New York took to implement these new laws based on the 2010 census in conjunction with their redistricting schedules. It details the challenges each state faced as the first in the country to implement this reform—including legal disputes and data deficiencies—and the steps taken to meet and overcome those challenges. It also provides concrete recommendations, based on the experience and expertise of the actors in each state, to assist other jurisdictions in permanently ending prison gerrymandering.

INTRODUCTION

The Problem

Once every ten years, the United States conducts the decennial census to determine the country's population. The U.S. Constitution requires this enumeration in order to determine the apportionment for the U.S. House of Representatives, but today census data are used for wide ranging calculations, research and study, including determining apportionment for state legislative and congressional districts and local political races on the county, city and town level.

Planners of the first U.S. census in 1790 established the concept of “usual residency” to determine where people would be counted on “Census Day”—April 1 of the decennial year. Usual residence was defined as the place where the person lives and sleeps most of the time.¹ As a consequence of the usual residency rule, people who are incarcerated on Census Day are counted as residents of the correctional facility because the census has determined that is where they “live and sleep most of the time.”

Once the census is complete, states and localities use the data to draw legislative districts for Congress, the state legislature and local government. As local populations shift and move, congressional, state, county and municipal legislative districts must be redrawn to assure that each district has roughly equal population. This in turn protects the principle of “one person, one vote,” assuring that every voter has equal representation in our government.²

Because the census data count people in prison as residents of the prison, incarcerated individuals are grouped together with non-incarcerated individuals living in the surrounding community to form legislative districts. However, the vast majority of incarcerated individuals cannot vote while in prison and they have no ties to the local community beyond being sent there by the Department of Corrections.³ Consequently, people in prison become “ghost constituents” to whom the legislator from the district has no connection or accountability, but whose presence in the prison allows the legislator's district to exist. The voting strength of the actual constituents who live adjacent to the prison is unfairly inflated simply because of their proximity to a correctional facility. This phenomenon is called “prison gerrymandering.”

Over the last four decades incarceration rates in our country have skyrocketed, increasing by 400% since 1970.⁴ From 1925 to 1970, the incarceration rate remained remarkably stable, hovering around

110 per 100,000 of the population.⁵ But beginning in the 1970s and increasing dramatically through the next few decades, the nation enacted stiffer sentencing and “tough-on-crime” laws. The result is that today there are approximately 1.6 million people in state and federal prison in the United States, eight times as many as there were in 1970.⁶ The census applying the “usual residency” rule throughout this period results in more than a million incarcerated individuals in our country being deemed residents of their prison cells rather than their home communities to which most will return in less than three years.⁷

The inverse to this skew in the prison districts is the erosion of voting strength in the home communities—often located many miles away—to which most incarcerated individuals return. Every person counted in prison on Census Day is one fewer resident counted in the home community, which is often disproportionately urban, poor and minority. The result is fewer voices and fewer votes to demand accountability and representation by local officials. As the prison districts artificially inflate, the representation of home communities declines.

A similar imbalance occurs between neighboring districts. A district that contains a prison will have inflated voting strength compared to a neighboring district without a prison, creating inequalities between residents of neighboring communities.

Prison gerrymandering has other troubling implications. A legislator whose district depends on the people incarcerated in a correctional facility to meet its population requirement has every incentive to keep that prison not just open, but filled to capacity. This incentive may influence the legislator’s positions on criminal justice policies and sentencing laws. For example, two of the most vocal opponents to reforming New York’s stiff drug sentencing laws were Republican senators whose districts held more than 17% of the state’s incarcerated population;⁸ nearly a third of the individuals in one of these districts were incarcerated on drug related offenses.⁹

Two States Illustrating the Problem: Maryland and New York

Maryland

The average number of people incarcerated in Maryland state correctional facilities is approximately 22,000.¹⁰ Sixty-eight percent of incarcerated individuals come from Baltimore City, but approximately 85% of Maryland’s 28 correctional facilities are located in rural or suburban communities outside of Baltimore.¹¹ The average

distance of each facility from Baltimore is 60 miles, and five facilities are more than 100 miles away;¹² this in a state that is only 12,000 square miles. More than 98% of people incarcerated in Maryland will be released, and most after just a few years.¹³ The average length of time served in Maryland state prisons is only 2.5 years.¹⁴

This prison geography creates a significant political imbalance. For example, in Somerset County, a large prison was 64% of the county's First Commission District, giving each resident in that district 2.7 times as much influence as residents in other county districts.¹⁵ Similarly, 18% of state delegate District 2B in Washington County was incarcerated, giving every group of four state District 2B residents as much political influence as five residents elsewhere in the state.¹⁶ Of the 5,268 African-Americans in state District 2B, 90% are incarcerated.¹⁷

New York

For decades, the distortion created by prison gerrymandering was particularly severe in New York. Approximately three-quarters of New York's prisons are located more than 100 miles from New York City; in fact, more than 60% are located over 200 miles from the City, and over a third are located more than 300 miles from the City.¹⁸ The Prison Policy Initiative's analysis of the 2000 redistricting cycle found that 66% of New York State's prisoners were from New York City,¹⁹ but 91% were incarcerated upstate.²⁰ While the state's prison population was 77% African-American or Latino, 98% of the state's prison cells were located in disproportionately white state Senate districts.²¹ Moreover, although the prisons themselves look permanent, the people confined there are quite temporary. According to New York corrections data, "the median time that an incarcerated person has been at his or her current facility is just over [seven] months."²²

The policy of basing legislative districts on prison populations creates an imbalance not just between upstate and downstate communities, but also between upstate communities with prisons and upstate communities without prisons. A district that includes a prison has inflated voting strength compared to any other district without a prison, including one right next door.

For example, in the districts drawn after the 2000 census, New York Senate District 45 gained extra influence by using almost 13,000 incarcerated people to inflate its population, giving residents of the district more influence than residents of other districts, including neighboring rural District 43 which contained no state

prisons.²³ The small upstate city of Rome had a city council ward that was 50% incarcerated, giving the residents of that ward twice the influence over city affairs as residents in other parts of the city.²⁴

During the 2000 redistricting cycle in New York, the New York Senate interpreted the redistricting formula provided by the New York State Constitution to require 62 senate districts, each of which should have held approximately 306,000 people.²⁵ According to the Supreme Court's one-person-one-vote principle, each district should have equal population so that each resident will have the same electoral power as any other resident elsewhere in the state. A 10% total deviation from absolute population equality (plus or minus 5% for any individual district) is generally permissible for state legislative districts. But drawing the new senate districts based on Census Bureau data that allocate people in prison as "residents" of the prison location meant that several districts in New York were padded with individuals who were not considered legal residents for any other purpose, and who could not vote locally.²⁶ Indeed, while nominally within the permitted 10% deviation, seven New York state senate districts drawn after the 2000 census met minimum population requirements only by including incarcerated people who were residents of other communities.²⁷

New York Under-Populated Senate Districts after 2000 Redistricting²⁸

Senate District	Senator	Type	Reported Population	Prisoners to remove	Corrected Population	Corrected Deviation
45	Ronald Stafford	Rural	299,603	12,989	286,614	-6.36%
47	Raymond Meier	Rural	291,303	3,563	287,740	-5.99%
48	James Wright	Rural	290,925	5,291	285,634	-6.68%
49	Nancy L. Hoffman	Rural	291,303	2,881	288,422	-5.77%
51	James Seward	Rural	291,482	3,108	288,374	-5.78%
54	Michael Nozzolio	Rural	291,303	3,551	287,752	-5.99%
59	Dale Volker	Rural	294,256	8,951	285,305	-6.79%

The Solutions

Solutions at the National Level

The most obvious solution to the inequity and imbalance caused by prison gerrymandering is for the Census Bureau to count people who are in prison as residents of their home communities, rather than where they are incarcerated. By allocating people in prison to their home communities, the Census Bureau would provide accurate population data that states and localities could use to design fair, accountable districts. Recently, more than 200 organizations signed a letter urging the Census Bureau to conduct the research necessary to ensure that the 2020 census counts incarcerated people at their home addresses.²⁹ In addition, the Census Bureau's Center for Survey Measurement released an ethnographic study of the 2010 count of the jail and prison group quarters population, which includes a recommendation that the Census Bureau create a self-enumeration pilot study to determine the utility of prison inmates completing their own census forms.³⁰

In 2011, for the first time, the Census Bureau released the Advanced Group Quarters data to the states earlier in the redistricting cycle. Traditionally, the first counts of people in “group quarters”—which include prisons—were not available until the summer of the year after the census, too late to be useful for redistricting in most states. In 2000, even states that were aware of the problems caused by prison gerrymandering were unable to correct the data because they did not have access to the group quarters data at the time they were apportioning their residents for districts.

In response to requests by advocates and the Congressional Subcommittee on Information Policy, census and National Archives, the Census Bureau released its group quarters data in April 2011, significantly earlier than it had in previous decades. While this data did not include home address information, its earlier release allowed states and localities that were interested in adjusting the incarcerated population to have access to crucial data necessary to do so. The Census Bureau explained, “This decade we are releasing early counts of prisoners...so that states can leave the prisoners counted where the prisons are, delete them from the redistricting formulas, or assign them to some other locale.”³¹

State Solutions

The early release of the Group Quarters data made it easier for more states and localities to avoid prison gerrymandering when redistricting. Legislation to end prison gerrymandering has been introduced in 17 states since the start of 2010,³² and over 200 counties and municipalities now avoid padding local government districts with incarcerated populations.³³

In the last few years, California, Delaware, Maryland and New York passed laws to reallocate people in prison back to their home communities.³⁴ California and Delaware will implement their new laws after the 2020 census, but Maryland and New York were able to implement their new laws in time for the 2010 redistricting cycle. Accordingly, the experience of Maryland and New York in implementing their reform laws after the 2010 census is examined in depth below.

Summary Comparison of New York and Maryland Reform Laws³⁵

	New York	Maryland
Applies to state legislative districts?	YES	YES
Applies to congressional districts?	NO	YES
Applies to local districts?	YES	YES
Applies to state prisons?	YES	YES
Applies to federal prisons?	YES for subtraction NO for reallocation	YES
Specifies implementing agency?	YES	NO
Directs correctional system to provide specific data?	YES	NO
Out-of-state and unknown addresses allocated?	NO—excluded from dataset	YES—allocated to correctional facility

I. MARYLAND'S SOLUTION: THE NO REPRESENTATION WITHOUT POPULATION ACT

In April 2010, Maryland's governor signed into law the No Representation without Population Act, H.B. 496.³⁶ The No Representation without Population Act required that the population count used to create legislative districts for the General Assembly, counties and municipalities, as well as for the U.S. House of Representatives, not include individuals incarcerated in state or federal correctional facilities or those individuals who were not residents of the state before their incarceration.³⁷ The Act further required that incarcerated individuals be allocated to their last known residence before incarceration if the individuals were residents of the state. Maryland's law was broader than New York's law, in that it applied to both state and federal prisons and applied to congressional as well as state and local legislative districts.

1. Implementation of Maryland's Reform Law

a. State Redistricting Law

Under the Maryland Constitution, the governor must prepare a plan for state legislative districts and present it to the President of the Senate and the Speaker of the House of Delegates.³⁸ The president and the speaker must introduce the governor's plan as a joint resolution no later than the first day of the regular legislative session in the second year following the census.³⁹ If a redistricting plan is adopted by the 45th day after the opening of the legislative session, that plan becomes law.⁴⁰ If no plan is adopted by the 45th day, then the governor's plan becomes law.⁴¹ Maryland law provides no specific guidance on the procedure for enacting a plan for congressional districts; the plan for congressional districts is introduced as a regular bill that must be passed by both houses and signed by the governor, subject to veto power.⁴²

The Governor's Redistricting Advisory Committee (GRAC) reviews redistricting plans submitted by outside groups and makes district plan recommendations to the governor.⁴³ The Maryland Department of Planning (MDP) provides staff support to the governor's office and GRAC, preparing maps and data, producing statistical data reports, and providing communications and outreach needed to develop redistricting plans.⁴⁴

b. Agency in Charge

The first step in implementing Maryland's No Representation without Population Act was to determine who would be responsible for the implementation since the legislation did not specify the agency that would be in charge of reallocating individuals to their home address. Because MDP had provided support for previous redistricting cycles and already employed a technical team of data and geocoding experts, it was determined that MDP, with the assistance of the Department of Legislative Services (DLS) and the Department of Public Safety and Correctional Services (DPSCS), would conduct the geocoding. There was also legal authority for MDP to act as the implementing agency: (1) the State Finance and Procurement Article of Maryland's code designates MDP as the staff agency of the governor for planning matters;⁴⁵ and (2) MDP has a Memorandum of Understanding with the U.S. Census Bureau designating it as Maryland's census agency.⁴⁶

c. Regulations

MDP proposed draft regulations that would provide additional guidance and details on how to implement the new law. For example, the law did not define "last known residence" or provide guidance on the steps necessary to geocode the data. "Geocoding" is the process of locating geographic coordinates from data such as a street address. Geocoding takes an address, matches it to a street and specific segment (usually a "block"), and then inserts the position of the address within that segment.⁴⁷ Once the geographic coordinates are located, the address can be mapped and entered into a Geographic Information System (GIS) to allow technical staff and policymakers to draw legislative districts.

The redistricting timeline did not allow MDP the approximately six months it usually takes to adopt regulations in Maryland, so it adopted regulations on an expedited basis to allow it to adjust the data in time for the state's redistricting deadline. Although the regulations were adopted through an expedited schedule, MDP thoroughly vetted the regulations, seeking input from DLS, the Attorney General's office, DPSCS, and MDP technical staff.

The regulations adopted by MDP filled in some additional detail to help the technical staff determine how to allocate incarcerated individuals. For example, the regulations clarified that "incarcerated individuals" included only those detained in state and federal correctional facilities, and not local (i.e., county or city) facilities, or those whose last known address was out of state.⁴⁸ They also

provided some additional guidance on how to geocode the last known residence of incarcerated individuals, requiring the department to make “reasonable efforts” to correct any last known address that was “ungeocodable”, including: verifying and correcting the zip code against the U.S. Postal Service zip code locator; correcting misspellings of city and street names; correcting or adding street suffixes against the postal service zip code locator, correcting street direction using the US postal service zip code locator, removing extra information from the address field, removing the apartment number and removing any decimal points in the address.⁴⁹

The regulations further provided that if, after these reasonable efforts, MDP was still unable to geocode the last known address for an incarcerated individual by February 11, 2011, then the last known address “shall be the state or federal correctional facility where the individual is incarcerated.”⁵⁰ This created another difference between the Maryland and New York laws: in New York, a person with an unknown address was simply not allocated to any legislative district, while in Maryland the person would be allocated back to the district that contains the prison.

Finally, the regulations provide examples of “ungeocodable” addresses, including: no address or an address of “homeless,” address of a correctional facility, rural route address, post office box, address with no house number, addresses with multiple errors or no street suffix, and addresses that are incorrect or not included in the census bureau’s TIGER street centerline file used to geocode addresses.⁵¹

d. Federal Prison Data

Implementation of the statutory provision to reallocate people in federal correctional facilities met with some resistance from the Federal Bureau of Prisons (BOP). In July 2010, MDP requested from the BOP an electronic database containing a unique prisoner identifying number and the address of the last known residence before incarceration for every inmate housed in the one federal prison located in Maryland on April 1, 2010.⁵² The BOP would not release the information, citing the Privacy Act of 1974,⁵³ and explaining that “the release of the requested information could constitute an unwarranted invasion of the individuals’ personal privacy.”⁵⁴ Despite two appeals, the BOP refused to release the information.

MDP determined the number of people in the federal prison by examining the 2010 census block level data for the facility and concluded that 1,514 federal prisoners were in these census blocks.⁵⁵ MDP also examined the weekly population report from the Federal

Bureau of Prisons available on the BOP's website.⁵⁶ In accordance with the regulations, the federal inmates remained allocated to the census blocks where the correctional facility was located.⁵⁷

e. State Prison Data

MDP and DLS reached out to the Maryland Department of Public Safety and Correctional Services (DPSCS) to request inmate address information after passage of the Act. DPSCS formed a team consisting of case managers at each facility as well as database technicians to work on collecting and organizing the necessary data.

To gather the data required by the No Representation without Population Act, DPSCS first consulted its own database—the Offender Based State Corrections Information System (OBSCIS)—that maintains demographic and other information concerning inmates confined in Maryland correctional facilities.⁵⁸ The OBSCIS system was used to determine which inmates were confined in Maryland correctional facilities on Census Day, April 1, 2010. The list of inmates was then separated into two additional lists: one for those listed as Maryland residents and one for those listed as out-of-state residents.⁵⁹ These lists were forwarded to the correctional facilities where the inmates were incarcerated so the data could be reviewed for accuracy and so that missing address fields could be completed and inaccurate fields could be corrected.⁶⁰ Each correctional facility then completed and corrected the missing and inaccurate address fields, relying on three sources: (1) an interview with the inmate and sometimes his or her family; (2) the pre-sentence investigation document; or (3) the correctional facility intake form.⁶¹ The corrected information was then entered into one database that was provided to MDP.

On February 4, 2011, MDP received a computer database from DPSCS containing address records for 22,064 inmates who were under the supervision of the Division of Corrections on April 1, 2010, Census Day.⁶² There were some inconsistencies in the way DPSCS categorized and recorded data regarding inmates' race, and the categories used by the U.S. census. DPSCS collected only five categories of race: White, Black, American Indian, Asian and "unknown."⁶³ Notably, the DPSCS data did not have a category for Hispanic or Latino, "two or more" races, Native Hawaiian/Pacific Islander, or the "other race category" as used in the census. Because of the inconsistency in the demographic categories, MDP analyzed the proposed districts with unadjusted numbers for Hispanics and certain racial groups. MDP concluded that because of the small

number of people involved, the inconsistency in data was not statistically significant.⁶⁴

f. Geocoding and Reallocation

Once the address data were received, the implementation task was handed over to the MDP data experts for geocoding. The first task was to examine the data to assure that only addresses approved by the statute were used in the reallocation process. MDP examined the data and removed addresses for pretrial detainees, people in juvenile facilities and those serving home detention, none of which were “correctional facilities” under the statute. During this process, MDP also removed 1,321 out-of-state addresses that were clearly excluded by the statute, and missing or invalid addresses such as “homeless” or post office boxes. MDP staff labeled these entries “discarded addresses”—3,358 in total—and removed them from the database.⁶⁵

Once the “discarded addresses” were removed, the geocoders were left with 18,706 “assumed geocodable” records.⁶⁶ MDP then conducted a second review of this remaining data to identify incomplete or incorrect address fields.⁶⁷ Staff first focused on easily correctable items, such as misspelled or abbreviated city names or incorrect abbreviations for extensions. They then turned to making other corrections, such as missing or incorrect zip codes and incorrect street names, which took a bit more research. To correct these fields, MDP consulted maps of municipal boundaries and zip codes, census TIGER files and MDiMap, an online mapping site maintained by the state of Maryland. In the end, only 12% (2,337) of the records required some type of correction.⁶⁸

After making these corrections, MDP geocoded the remaining data using ESRI GIS software and the U.S. Census Bureau’s 2010 TIGER/line street file for Maryland as the basis for the address locator. The database produced 17,140 addresses geocoded to the person’s last known residence, representing 77.7% of the original 22,064 in the database of prisoners received from DPSCS.⁶⁹ A total of 6.0% of the original prisoners had been identified as out-of-state residents and successfully removed from the redistricting dataset under the statute, bringing the successful reallocation to 83.7%.⁷⁰

g. Adjustment

In late February 2011, once MDP had completed its geocoding, it transferred the data to DLS. DLS had contracted with the Caliper Corporation, developer of Maptitude (a software program widely used to create legislative districts) to assign the geocoded incarcerat-

ed individuals to the appropriate census blocks. Using its Maptitude software, Caliper first removed the incarcerated individuals from the census blocks where the correctional facilities were located.⁷¹ Caliper then assigned each geocoded address to its appropriate census block. Caliper generated tracts and blocks and determined the increase and decrease in population.⁷² This process also served as an independent review of MDP's geocoding.

MDP's and DLS's timeframe for adjusting the census data was informed in large part by the City of Baltimore's early redistricting deadline. Under the City Charter, the Mayor must present a redistricting plan to the City Council not later than the first day of February of the first municipal election year following the census.⁷³ The Baltimore City Council then has sixty days to adopt or amend the plan.⁷⁴ Because Baltimore neighborhoods were so heavily impacted by prison gerrymandering, it was important for the adjusted data to be available for the city's redistricting. MDP released its final adjusted data on March 22, 2011, in time for Baltimore to redraw its City Council districts.

h. Public Education

Once the geocoding was complete and MDP had generated the adjusted data, MDP took affirmative steps to ensure that counties and municipalities used the adjusted data, not just the census PL 94-171 redistricting data they had used in the past. In order to get the word out across the state concerning the adjusted data, the Attorney General's Office participated in a Bar Association training for local and county attorneys, and MDP informed county and municipal planners. The MDP geocoding staff also did outreach to the local GIS community. MDP issued a press release when the adjusted data was certified and the adjusted data was posted to MDP's website for download.

2. A Legal Challenge: *Fletcher v. Lamone*

On November 10, 2011, a lawsuit financed by the Legacy Foundation,⁷⁵ a conservative Iowa-based advocacy group, was filed in U.S. District Court for Maryland.⁷⁶ Among other redistricting claims, the plaintiffs argued that Maryland's congressional districts violated the one-person-one-vote principle because they were based on the adjusted population data and not the numbers as they were reported by the U.S. census.⁷⁷ Plaintiffs also argued that the districts discriminated against racial minorities because the number of inmates who were identified as having a last known address outside the state of

Maryland, and thus were not reallocated to their home districts, were disproportionately African-American.⁷⁸ Specifically, plaintiffs argued that “omitting certain persons residing in state prisons whose last known addresses are from outside the State of Maryland and who are disproportionately minority” amounted to intentional racial discrimination in violation of the Fourteenth and Fifteenth Amendments.⁷⁹

The state was represented by the Attorney General’s redistricting team which consisted of attorneys representing the General Assembly, MDP and the Civil Litigation Unit. In addition, a number of civil rights and voting rights groups appeared as *amici curiae* to defend the constitutionality of the new law, including Howard University Law School’s Civil Rights Clinic, the Maryland NAACP, the NAACP Legal Defense and Educational Fund, the Maryland ACLU, Demos and the Prison Policy Initiative.⁸⁰ *Amici* argued that the Maryland legislature determined that the new law was necessary to “correct the striking inequity that existed previously due to the crediting of incarcerated people to electoral districts where they cannot vote, where they have no community ties, and where they are not considered residents for any other purpose other than the census.”⁸¹

On December 23, 2011, a three-judge panel granted the state’s motion for summary judgment, finding the No Population without Representation law to be constitutional and MDP’s implementation of the law to be proper and nondiscriminatory.⁸² In a lengthy opinion, the court carefully weighed all of plaintiffs’ arguments, examined MDP’s implementation of the law, and found that a state may choose to adjust census data, as long as the adjustment is thoroughly documented and “applied in a nonarbitrary fashion.”⁸³ The court also noted that Maryland’s adjustment of census data during redistricting did not conflict with the practices of the Census Bureau, explaining that according to the Bureau, “prisoners are counted where they are incarcerated for pragmatic and administrative reasons, not legal ones.”⁸⁴

The court concluded that Maryland’s adjustment to the census data was made in the systematic manner demanded by the United States Supreme Court. Citing the regulations, the court noted that MDP “undertook and documented a multistep process” to identify the last known address of all individuals in Maryland’s prisons.⁸⁵ Finally, the court found no evidence to support plaintiffs’ claim that the adjustment resulted from intentional racial discrimination. The court was careful to explain: “Our review of the record reveals

no evidence that intentional racial classifications were the moving force behind the passage of this Act. In fact, the evidence before us points to precisely the opposite conclusion.”⁸⁶ Relying on the amicus briefs filed by civil and voting rights organizations, the court acknowledged that the act was “the product of years of work by groups dedicated to advancing the interests of minorities.”⁸⁷ The United States Supreme Court affirmed the judgment on June 25, 2012.⁸⁸ Consequently, Maryland’s law and the 2011 adjustment were upheld.

Maryland Timeline

April 13, 2010	No Representation without Population Act signed into law
February 9, 2011	Census 2010 redistricting population counts (P.L. 94-171) received from U.S. Census Bureau
March 22, 2011	MDP releases adjusted population per No Representation without Population Act
May 2, 2011	Precinct population counts adjusted per No Representation without Population Act released
October 4, 2011	GRAC submits recommended congressional redistricting plan to governor
October 17, 2011	Special legislative session called to adopt congressional redistricting plan
October 20, 2011	Maryland 2011 congressional districts adopted
December 16, 2011	GRAC submits recommended state legislative redistricting plan to governor
December 23, 2011	<i>Fletcher v. Lamone</i> dismissed; No Representation without Population Act upheld by U.S. District Court
January 11, 2012	Governor submits state legislative redistricting plan to Senate President and Speaker of the House of Delegates
February 24, 2012	New state legislative district plan becomes law
November 6, 2012	Congressional district plan approved by ballot referendum

II. NEW YORK'S SOLUTION: PART XX

On August 11, 2010, Part XX of Chapter 57 of the Laws of 2010 (Part XX) was signed into law to fix the skew created by allocating New York's prison populations to the districts where they are incarcerated. Part XX directed the New York State Legislative Task Force on Demographic Research and Reapportionment (LATFOR) to reallocate people in correctional facilities back to their home communities for purposes of drawing state and local districts.⁸⁹

Part XX directed the New York State Department of Corrections and Community Supervision (DOCCS) to deliver to LATFOR by September 1 of the census year, the following information for each person in its custody on Census Day: (1) a unique identifier, not including the name; (2) the address of the correctional facility in which the person was incarcerated; (3) the residential address of the person prior to incarceration; and (4) any additional information specified by LATFOR.⁹⁰ Part XX also required LATFOR, upon receipt of this information from DOCCS, to determine the census block corresponding to the street address of each incarcerated person's residential address prior to incarceration and the census block corresponding to the address of the correctional facility.⁹¹ The new law then directs LATFOR to create a database in which "all incarcerated persons shall be . . . allocated for redistricting purposes, such that each geographic unit reflects incarcerated populations at their respective residential addresses prior to incarceration rather than at the addresses of [the] correctional facilities."⁹² Part XX requires LATFOR to maintain the amended population dataset and use the dataset to draw state assembly and senate districts.⁹³

Part XX addressed the appropriate population base for local (county, city, town and village) redistricting by amending the Municipal Home Rule Law to clarify that for purposes of establishing the population base requirements for local redistricting plans, "no person shall be deemed to have gained or lost a residence, or to have become a resident of a local government . . . by reason of being subject to the jurisdiction of the department of corrections."⁹⁴ The new law also required LATFOR to make the adjusted dataset available to local governments.⁹⁵

Under Part XX, all individuals with out-of-state or unknown pre-incarceration addresses, and all individuals incarcerated in federal correctional facilities are "counted at an address unknown" and not included in the redistricting dataset.⁹⁶ Effectively this means that these individuals would be "subtracted" from the prison district,

but not reallocated to a home district. The choice to not reallocate those in federal prisons reflected concerns about the privacy laws that govern federal facilities and the lack of state authority over those in federal custody. The Privacy Act of 1974 regulates what personal information the federal government can collect about private individuals and how that information can be used.⁹⁷ While there is concern that federal prisons may be restricted from disclosing personal records, even if the records do not include personally identifiable information, it is also clear that at least one state—Kansas—has a long history of successful cooperation between federal and state agencies. Kansas reallocates people living on military bases for redistricting, and the U.S. military has worked with the state to collect and share home residence data for people living on military bases in the state.⁹⁸

1. A Legal Challenge: *Little v. LATFOR*

On April 4, 2011, a group of upstate Republican New York State senators—all of whom represented districts that included at least one New York state prison—and a handful of voters who lived in those districts, filed a lawsuit against LATFOR and DOCCS arguing that Part XX was unconstitutional and asking the court to enjoin LATFOR and DOCCS from implementing the new law.⁹⁹ Plaintiffs argued that the new law violated Article III, section 4 of the New York State Constitution which provides that the federal census “shall be controlling as to the number of inhabitants in the state or any part thereof for the purpose of apportionment of members of the assembly and adjustment or alteration of senate and assembly Districts.”¹⁰⁰ The Complaint alleged that Part XX “creat[ed] a structural change by an artificial realignment of political power in the State” in violation of Article III, section 4, which, plaintiffs claimed, required the census to be “controlling” for apportionment purposes.¹⁰¹

Numerous voting rights and civil rights groups that had advocated for the reforms in Part XX intervened on behalf of the state defendants, representing voters from both upstate and downstate communities. The voters who intervened represented different interests, including: (1) those who lived in districts with high numbers of incarcerated individuals; (2) those who lived in both upstate and downstate counties that did not contain a prison; and (3) those who lived in a county where a prison was located but whose vote would nevertheless be diluted if the lawsuit prevailed because their local

county legislative districts did not contain a prison.¹⁰²

On December 1, 2011, on cross motions for summary judgment, the New York State Supreme Court in Albany County upheld Part XX.¹⁰³ Relying in part on the new census policy of releasing the Group Quarters data early, the court found that plaintiffs had not demonstrated that Part XX “rendered the data provided by the Census Bureau to be anything less than ‘controlling’ in the redistricting process.”¹⁰⁴ The court further explained that there was nothing in the record indicating that people in prison “have any actual permanency in these locations or have an intent to remain. . . . [P]laintiffs have not proffered evidence that inmates have substantial ties to the communities in which they are involuntarily and temporarily located.”¹⁰⁵

Plaintiffs’ attempt to appeal directly to the New York Court of Appeals was denied, and they chose not to appeal the Supreme Court’s decision to the mid-level appellate court. As a result, New York’s law was upheld and successfully implemented in time for districts to be drawn before the 2012 state-wide elections, as required by the New York Constitution.

2. Implementation of New York’s Reform Law

a. State Redistricting Law

The New York legislature has primary responsibility for drawing the state’s congressional and state legislative district lines.¹⁰⁶ The New York State Legislative Task Force on Demographic Research and Reapportionment (LATFOR), a six-member advisory commission comprised of members appointed by the Senate and Assembly majority and minority leaders, provides technical assistance to the legislature.¹⁰⁷ While LATFOR recommends congressional and state legislative plans to the legislature, the legislature is free to amend or even ignore its proposals.¹⁰⁸ New York law does not impose a deadline for drawing district lines, but in practice districts must be final prior to the filing deadlines for the next primary election.

b. State Prison Data

On August 26, 2010, the LATFOR co-chairs sent a letter to the New York Department of Corrections and Community Supervision (DOCCS) requesting the following information for each incarcerated person subject to DOCCS jurisdiction on April 1, 2010:

1. A unique identifier, not including the name, for each incarcerated person;
2. The street address of the correctional facility in which such persons were incarcerated at the time of the census;
3. The residential address of such persons prior to incarceration;
4. The race, Hispanic origin, age and gender of such persons; and
5. Any additional information as the task force may specify pursuant to law.¹⁰⁹

DOCCS provided the data in September 2010. The data included a list of addresses for the people held in DOCCS custody on April 1, 2010. The spreadsheet included 58,237 rows, one per inmate, with each inmate denoted by a unique identification number.¹¹⁰ Each column of the spreadsheet was devoted to a different category of personal information associated with each inmate, including the county of conviction and the correctional facility where the inmate was incarcerated on April 1, 2010.¹¹¹ The data included residential addresses prior to incarceration for each inmate including the legal residence address, address at the time of arrest, and addresses of parents, spouses and nearest relative.¹¹² The legal residence address was presented in four address fields: street, city, county and state.¹¹³

c. Voting Rights Act Preclearance

Because Part XX constituted a change to voting laws and procedures, New York had to submit the law to the United States Department of Justice (DOJ) for “preclearance” under Section 5 of the Voting Rights Act. Because of past discrimination against language minorities, Bronx, Kings and New York counties were “covered jurisdictions” under Section 5 required to seek DOJ approval before implementing any changes to their voting laws or procedures.¹¹⁴

The New York Attorney General submitted the law for preclearance on March 8, 2011. The preclearance submission explained that Part XX would “directly benefit” minority voters protected by Section 5 because those incarcerated in New York state prisons “originate predominantly from urban districts . . . subject to § 5, and are incarcerated in non-covered jurisdictions.”¹¹⁵ The submission

concluded that Part XX would “appropriately adjust the weight of the vote of members of protected classes in New York’s three § 5 counties” The DOJ granted preclearance on May 9, 2011, finding that the state had carried its burden of establishing that the reform law was free of any discriminatory effect or intent, and allowing New York to move forward with implementing the new law in time for the 2011 redistricting cycle.¹¹⁶

d. Geocoding and Reallocation

Part XX specifically directed LATFOR to reallocate incarcerated individuals back to their prior residential addresses for redistricting purposes; so unlike in Maryland, there was no question about which agency was in charge of implementing the new law. Nevertheless, because of the political nature of LATFOR and its composition consisting of members of the legislature, legislative staff and agency staff representing both political parties, there was some delay in coordinating implementation. New York State Assembly staff took the initial steps to analyze the data and implement the new law.

The first step in the adjustment process was to “subtract” the prison population from the districts where the prisons were located. There were 68 DOCCS facilities in operation on April 1, 2010 in addition to two federal correctional facilities.¹¹⁷ The Census Bureau had assigned state and federal prisons to a total of 75 blocks in New York State.¹¹⁸ LATFOR staff used the addresses of DOCCS facilities and the two federal facilities to identify the correctional facilities on the 75 blocks identified by the Census Bureau.¹¹⁹ Staff then used the DOCCS dataset, which enumerated 58,237 inmates and the name of the facility in which each inmate was incarcerated, to calculate the total number of people incarcerated in each correctional facility on each census block.¹²⁰ The Task Force identified 2,471 inmates incarcerated in federal prisons located in New York on April 1, 2010, bringing the total prison population to 60,708.¹²¹ The total inmate population was then deducted from the total group quarters adult correction population to arrive at the adjusted population totals for these census blocks.¹²²

Next LATFOR staff sorted the DOCCS data to separate records with unambiguously identifiable legal residence addresses (32,276 records), those with out-of-state residences (2,433 records) and those with no usable address (1,276 records).¹²³ Records in these last categories, out-of-state and unusable addresses, were deleted from the dataset, leaving a balance of 22,252 records that required some correction or clarification.¹²⁴ Within this balance of 22,252 records,

staff identified 14,154 records that were easily corrected by fixing obvious spelling and spacing errors and replacing abbreviations with complete proper names.¹²⁵

The remaining 8,098 legal residence addresses were incomplete or absent, prompting staff to supplement the legal residence address with information from the additional five addresses provided by DOCCS.¹²⁶ Staff developed strict protocols for clarifying the addresses provided.

FIRST PROTOCOL: Record all edits.¹²⁷ LATFOR staff preserved the original dataset in the form it was received from DOCCS. Staff created a copy of the dataset and all modifications were made in the copy, not in the original. This allowed for a clear comparison between the original data and the data that included changes.

SECOND PROTOCOL: Create numeric codes to capture the nature of each change.¹²⁸ The DOCCS data included a number of abbreviations, but the geocoding software required the full and correct spelling of all streets, directional prefixes, cities and states. Numeric codes were created to capture the complete and exact dimensions of these changes. For example, code (1) indicated a change to abbreviation and spelling and code (2) indicated a change in spacing.¹²⁹ A total of ten codes were developed to represent the different types of alterations made to any of the fields comprising the legal residence address.

THIRD PROTOCOL: Create a set of alphabetical codes to identify sources of supplemental information.¹³⁰ When the information included in the Legal Residence Address field was incomplete, LATFOR staff examined information provided in the other five addresses to determine if there was information that could be used to complete the Legal Residence Address. If the supplemental information was used to construct a “final” legal residence address, a code was assigned to indicate from which field the supplemental information was used. For example, code A indicated that information came from the “address at arrest” field; code B indicated that the information came from the “father’s address” field.¹³¹

Once LATFOR staff completed its work correcting and clarifying the inmate address records, each record was assigned latitude and longitude coordinates by the geocoding software MapMarker.¹³² On the first pass, 30,932 addresses were matched.¹³³ For the records that were not matched, the geocoding software produced an explanation describing the error.

Next, LATFOR staff initiated the second phase, using Google Maps to enhance and clarify the ungeocoded addresses in order to provide additional information to allow geocoding with a higher level of certainty.¹³⁴ Examples of errors that were fixed in this phase include a misspelled city or street name, incorrect identification of the street type (“avenue” instead of “street”), or an incorrect or absent directional prefix. Following its previous model, staff created a new set of protocols and codes, ensuring that all edits were carefully noted and the source clearly identified.

Once these corrections were made, the data were once again passed through the geocoding software. The software was able to assign geographic coordinates for the addresses of 46,003 incarcerated individuals who could then be properly allocated back to their home communities.¹³⁵ The remainder of the addresses were for people who resided in other states (whom the statute required to be removed from the redistricting data), or individuals for whom the information on file wasn’t sufficiently detailed to allow them to be reallocated. New York State’s reallocation, while imperfect, was a marked step forward compared to the previous decade when all incarcerated people were allocated to the correctional facility where they were incarcerated on April 1 of the census year.

e. Adjustment

To adjust the census data, LATFOR staff created three statewide block-level files, which included the necessary demographic categories to accommodate the adjusted data and to make the DOCCS data compatible with the PL 94-171 census redistricting data. The first file included all of the geocoded prisoner home address and racial/ethnic information from DOCCS.¹³⁶ The second file included the block-level prison population and aggregated racial and ethnic information.¹³⁷ The third file included federal prisons using the census Advanced Group Quarters data.¹³⁸

Using these files, the adjusted redistricting data were created by taking the total census redistricting data for the state, adding the geocoded home addresses for people in prison, then subtracting the total state and federal prison populations.¹³⁹ As required by the statute, any incarcerated individual whose home address was not geocodable, or was unknown, was not included in the redistricting data.¹⁴⁰

The final adjusted population files, along with a detailed memorandum explaining the adjustment process, were made available to the public and local redistricting bodies through LATFOR’s website. There was no additional outreach or public education.

New York Timeline

August 11, 2010	Part XX signed into law
December 1, 2011	<i>Little v. LATFOR</i> dismissed; New York Supreme Court upholds Part XX
March 23, 2011	Census 2010 Redistricting population counts (P.L. 94-171) received from U.S. Census Bureau
May 9, 2011	Part XX precleared by U.S. Department of Justice
January 4, 2012	LATFOR released final prison population files adjusted per Part XX
January 26, 2012	LATFOR released proposed Senate and Assembly districts
March 11, 2012	LATFOR introduced bill including final Senate and Assembly districts
March 15, 2012	State legislature passed new state legislative districts; signed into law by governor
March 19, 2012	Final congressional districts ordered by United States District Court
April 27, 2012	Senate districts precleared by U.S. Department of Justice
May 18, 2012	Assembly districts precleared by U.S. Department of Justice

III. RECOMMENDATIONS

Passing and implementing Maryland's No Population without Representation Act and New York's Part XX involved multiple agencies and actors, including legislators and their staff, government agencies, the Attorneys General's offices, private software companies and consultants, and outside advocacy organizations. The combined experiences of these various actors in implementing this reform revealed some common recommendations for implementing reforms.

1. Change the Census

The most effective way to correct the inequity caused by prison gerrymandering laws is for the census to count people in prison as residents of their home communities rather than their prison cells. There is widespread support for this change among advocates, scholars, redistricting experts, members of congress, editorial boards, state legislators and the administrative agencies tasked with drawing legislative districts.¹⁴¹ Those involved with implementing the new laws in Maryland and New York agreed that the prisoner reallocation would be streamlined if the Census Bureau tabulated incarcerated persons at their home addresses.¹⁴²

Specifically, the Census Bureau should:

- Update the interpretation of the Usual Residency rule to ensure that incarcerated persons are allocated to their home residence rather than at the location of a correctional facility. The Bureau should consult with stakeholders, including redistricting experts, elections officials, corrections officials, criminal justice advocates, and others to develop the best strategies and data choices for meeting this goal.
- Consider using “self-enumeration” data wherever possible to tabulate incarcerated people. Allowing incarcerated individuals to complete and submit their own census forms would allow them to identify their race and ethnicity as well as enable them to directly list their current home address.
 - Conduct a self-enumeration pilot study in select correctional facilities to develop protocols and test the utility of inmate-completed forms, as suggested

by the Bureau's 2013 Ethnographic Study.

- Where administrative records are to be used to tabulate incarcerated people, rely on agency-level administrative records collected by the Federal Bureau of Prisons and state correctional agencies—as suggested by the Bureau's 2013 Ethnographic Study—rather than collecting this data on the individual facility level.
- Consult with the Bureau of Justice Statistics to identify best practices for designing effective systems for collecting accurate and reliable state corrections data.¹⁴³
- Assure that state correctional agencies are aware of the Office of Management and Budget's (OMB) Standards for the Classification of Federal Data on Race and Ethnicity, and advise state correctional agencies on how data systems can be structured to facilitate data collection consistent with these standards. Encouraging states to use the OMB standards would eliminate inconsistencies in how race and ethnicity data are recorded.¹⁴⁴
- Conduct experiments using existing state corrections data to evaluate how these administrative records, in their current form, would impact Census Bureau workflow and quality standards, as well as to develop protocols for addresses that cannot be successfully geocoded.
- Consider how to allocate persons in the limited circumstances where an individual's home address is unknown or nonexistent. For example, the Bureau may have to tabulate a limited number of people at the correctional facility where there is insufficient home address information.
- Explore whether the recommendation of the 2013 *Ethnographic Study of the Group Quarters Population in the 2010 census: Jails and Prisons* to establish “correctional specialists” to coordinate the Bureau's enumeration of people confined in correctional facilities will improve efficiency and standardization.¹⁴⁵

2. Change State Laws

The effects of prison gerrymandering can also be addressed at the state level, as it was in Maryland and New York. As with any legislative change, these reforms require careful research and planning, and building a broad coalition of support. But in addition to general legislative strategy, there are some specific recommendations based on the experiences of successful reform in New York and Maryland.

a. Bill Drafting

Drafting legislation to address prison gerrymandering can be complicated, because the legislation often has to include changes to the election law, the corrections law and sometimes the executive law. Because of these inherent complexities, it can be tempting to draft legislation that is short and simple as a way to make it easy to understand. But it is important not to omit key details and processes. For example, the Maryland legislation did not name the implementing agency. Maryland solved this problem smoothly because the same state agency had both census and redistricting experience and a data staff that could perform the required geocoding, but in other states it may be important for the legislation to identify the implementing entity.

In both New York and Maryland, staff members who implemented the reform laws identified places where the law could have provided more information to properly inform the decisions and judgments they had to make. For example, Both MDP and DPSCS identified the phrase “last known residence” to be too vague and provide insufficient guidance on which address should be used. There was also some ambiguity about who was intended to be included in the category “prisoner”—whether it included pretrial detainees, residents of half-way houses and/or juvenile facilities. Similarly, in New York, LATFOR staff explained that the phrase “residential address prior to incarceration” did not provide enough guidance to decide between the various address fields provided by the DOCCS data. Including a definitions section and providing more specific wording would eliminate some of the guess work and allow for a smoother implementation.

It is also important to remember that prison gerrymandering reforms often have the greatest impact at the local government level in municipal and county districts. To assure that the new law has the most comprehensive effect, the legislation should require localities to use the adjusted data when drawing their local districts.

The Prison Policy Initiative has a model bill with sample language that provides helpful guidance to bill drafters on all of these issues.¹⁴⁶

b. Stakeholders

Early consultation with the technical staff that will be charged with implementing the reform law can help avoid gaps, inconsistencies and unrealistic expectations in the final law. Bill drafters should speak with the technical staff to get a good understanding of what the implementing agency will need to know, and ensure that those who understand the geocoding and adjustment process can share information that will create a thorough and legally sound bill. As part of this early outreach, bill drafters should also contact the correctional agency to discuss its data collection practices and the content and structure of its database. Legislation could require the corrections agency to collect additional data, or maintain its data in a particular format in order to ease implementation later on.

c. Corrections Data

Correctional facilities should strive to collect data that would be useful to the Census Bureau and redistricting officials. This data should include home residence information down to the street level (and, wherever possible, avoiding non-geographic addresses like post office boxes and rural route addresses). Standardized street dictionaries or master address files can be used to make sure street names, city names, and zip codes are all valid. Similarly, correctional facilities should collect race and ethnicity data on their population in a way that is consistent with the Office of Management and Budget’s “Standards for the Classification of Federal Data on Race and Ethnicity” and therefore also consistent with the Census Bureau’s redistricting data.¹⁴⁷ In all cases, correctional facilities should strive to have accurate, current, and complete data.

3. Plan for Implementation

Implementation of these reforms involves various administrative agencies, and many states impose strict deadlines for finalizing legislative districts. Consequently, agencies and policymakers should allow plenty of time to plan and execute the implementation stages. Identifying redistricting deadlines far in advance and planning accordingly can help assure a smooth implementation.

a. Timing

Creating, obtaining, adjusting and checking data can take significant amounts of time that must be expended in a specific order. Officials in both Maryland and New York advised others to start as early as possible.¹⁴⁸ Planning should begin long before Census

Day (at least two years in advance), and adjusting the corrections data should begin as soon as the census is taken, allowing nine to twelve months to understand and prepare the corrections data, and several additional months between the Census Bureau's publication of the redistricting data and an individual state's formal start of line drawing.

Implementing agencies should be aware that localities often have redistricting deadlines that are earlier than the state deadline. Consultation with local redistricting bodies and elected officials will help ensure that the adjusted data is available in time to be helpful to as many localities as possible. For example, Maryland accelerated the release of its adjusted data so that it could be used in Baltimore City's municipal redistricting. On the other hand, the New York legislation did not give a specific deadline for LATFOR to produce the adjusted dataset, which had the unintentional effect of some localities proceeding to redistrict before the adjusted data was available.

b. Transparency

As with any democratic reform, creating a transparent implementation process will allow greater public participation and engagement. This is particularly important in redistricting; legislative lines can have a dramatic impact on local communities, so public participation is especially critical to creating fair and accurate districts.

There are various ways to assure transparency when implementing prison gerrymandering reforms. For example, drafting regulations allows an opportunity for public comment and provides a clear process for how the new laws will be implemented. MDP found it very helpful to draft regulations to implement the Maryland law. The regulations provided consistent guidance throughout the various stages of implementation, particularly in providing specific definitions of terms in the law, and the steps the department must take to correct any missing or incorrect address data. The regulations proved to have additional utility when the implementation was challenged in court. In upholding the law, the court cited the regulations as evidence that MDP followed a careful and consistent process in adjusting the census data. Maryland also published reports on how the new law was implemented. Sharing this information allowed the public, as well as policymakers and legislatures, to understand the impact of the new law and its effect on local districts. Both New York and Maryland published the adjusted data on their websites, so that local redistricting bodies as well as policymakers, researchers, and members of the public could access and examine it.¹⁴⁹

c. Inter-Agency Collaboration

Reforming prison gerrymandering requires agencies that do not usually work together to collaborate and communicate. The agencies may not be familiar with each other's policies, or share a common vocabulary. One of the biggest challenges identified in both Maryland and New York was the implementing agency's lack of familiarity with the structure of the corrections system, the different types of facilities, why those differences were significant, or how the facilities created and maintained data. To alleviate this confusion, the redistricting and corrections agencies should form an integrated team at the earliest stage of implementation to share information and educate each other about relevant policies and procedures as well as data standards, and to create a common understanding and language. Legal counsel should be included in these conversations to assist with statutory and regulatory interpretation.

CONCLUSION

Officials in Maryland and New York were the first in the country to take on the challenge of correcting the distortions of democracy caused by prison gerrymandering. Their combined experiences demonstrate how diverse state and local agencies can work together to successfully implement new and important policy reforms, and provide a valuable resource for policymakers and advocates across the country seeking to implement similar reforms. Today there is renewed attention to addressing the injustice created by prison gerrymandering. The Census Bureau, in keeping with its goal of producing the most accurate census count possible, should continue re-evaluating its policy of how it enumerates the prison population, and ultimately issue new guidance for tabulating incarcerated persons at their home addresses. Meanwhile, states across the country should implement their own solutions for reallocating individuals back to their home communities, in order to create more equitable and representative districts. These reforms, together, will realize the principle of one person-one vote, and ensure that prison gerrymandering no longer distorts our democracy. ■

ENDNOTES

1. *Residence Rule and Residence Situations for the 2010 census*, U.S. Census Bureau, http://www.census.gov/population/www/cen2010/resid_rules/resid_rules.html (last visited June 26, 2014).
2. See *Reynolds v. Sims*, 377 U.S. 533, 565-66 (1964). For congressional districts, states must make a good-faith effort to have mathematical equality for each district. See *Wesberry v. Sanders*, 376 U.S. 1, 7-8, (1964). For state legislative districts, there is more flexibility; they have to reflect “substantial equality of population.” *Reynolds*, 377 U.S. 533, 559 (1964). Generally, the population difference between the largest and smallest state legislative districts can be up to 10% of the average district population. *Id.* Disparities in Congressional district populations are governed by the Apportionment Clause, U.S. Const. art. I, § 2, while state legislative district population disparities are governed by the Equal Protection Clause, U.S. Const. amend. XIV, § 1. For a thorough and practical explanation of redistricting principles, see Justin Levitt, Brennan Center for Justice, *A Citizen’s Guide to Redistricting* (July 1, 2008), available at <http://www.brennancenter.org/publication/citizens-guide-redistricting>.
3. Only Maine and Vermont allow people to vote while in prison. See Erika Wood, Brennan Center for Justice, *Restoring the Right to Vote 3* (May 11, 2009), available at <http://www.brennancenter.org/publication/restoring-right-vote>. In those two states, incarcerated people maintain residency in their home communities for voting purposes and vote in their home district by absentee ballot; they do not vote in the district where they are incarcerated. See Vt. Stat. Ann. tit. 17, § 2122(a); Me. Rev. Stat. Ann. tit. 21-A, § 112(14).
4. Compare Bureau of Justice Statistics, Office of Justice Programs, U.S. Dep’t of Justice, *Prisoners 1925-81*, at 2 tbl.1 (Dec. 1982), available at <http://www.bjs.gov/content/pub/pdf/p2581.pdf> (listing the number of state and federal prisoners per 100,000 residential population at 96 in 1970), with E. Ann Carson & Daniela Golinelli, Bureau of Justice Statistics, Office of Justice Programs, U.S. Dep’t of Justice, *Prisoners in 2012: Trends in Admissions and Releases, 1991-2012*, at 25 tbl.18 (Dec. 2013), available at <http://www.bjs.gov/content/pub/pdf/p12tar9112.pdf> (listing the number of state and federal prisoners per 100,000 residential population at 480 in 2012).
5. Marc Mauer, *Race to Incarcerate* 18, 20 (2d ed. 2006).
6. Compare Bureau of Justice Statistics, Office of Justice Programs, U.S. Dep’t of Justice, *Prisoners 1925-81*, at 2 tbl.1 (Dec. 1982), available at <http://www.bjs.gov/content/pub/pdf/p2581.pdf> (listing the number of state and federal prisoners at 196,429 in 1970), with E. Ann Carson & Daniela Golinelli, Bureau of Justice Statistics, Office of Justice Programs, U.S. Dep’t of Justice, *Prisoners in 2012: Trends in Admissions and Releases, 1991-2012*, at 25 app’x tbl.6 (Dec. 2013), available at <http://www.bjs.gov/content/pub/pdf/p12tar9112.pdf> (listing the number of state and federal prisoners at 1,570,397 in 2012).
7. Erica Goode, *Average Prison Stay Grew 36 Percent in Two Decades*, N.Y. Times (June 6, 2012), available at <http://www.nytimes.com/2012/06/06/us/average-prison-stay-grew-36-percent-in-two-decades.html>.
8. Gabriel Sayegh, *New York Must Reform its Racist Drug Laws*, AlterNet (May 4, 2007), http://www.alternet.org/story/51475/new_york_must_reform_its_racist_drug_laws.
9. See Peter Wagner, Prison Policy Initiative, *Prison Town Legislators Represent Prisoners’ Interests? Not Quite*. (June 14, 2004), <http://www.prisonersofthecensus.org/news/2004/06/14/represent/>.
10. See Md. Dep’t of Pub. Safety & Corr. Servs., *Secretary’s End of Year Report 22* (2010), available at http://www.dpscs.state.md.us/publicinfo/publications/pdfs/2010_DPSCS_End_of_Year_Report.pdf.
11. Peter Wagner & Olivia Cummings, Prison Policy Initiative, *Importing Constituents: Incarcerated People and Political Clout in Maryland* (Mar. 4, 2010), <http://www.prisonersofthecensus.org/md/report.html>.
12. See Md. Dep’t of Pub. Safety & Corr. Servs., *Correctional Facility Locator*, <http://www.dpscs.state.md.us/locations/prisons.shtml> (distances calculated using listed addresses of facilities) (last visited June 26, 2014).
13. Ashley Nellis & Ryan S. King, Sentencing Project, *No Exit: The Expanding Use of Life Sentences in America* 7 tbl.2 (July 2009), available at http://www.sentencingproject.org/doc/publications/publications/inc_NoExitSept2009.pdf.
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15. Wagner & Cummings, *supra* note 11.
16. Prison Policy Initiative, *Ending Prison-Based Gerrymandering Would Aid the African-American Vote in Maryland* (Jan. 22, 2010), <http://www.prisonersofthecensus.org/factsheets/md/africanamericans.pdf>.
17. *Id.*
18. See N.Y. State Dep’t of Corr. & Cmty. Supervision, *Facility Listing*, <http://www.doccs.ny.gov/facilist.html> (distances calculated using listed addresses of facilities) (last visited June 26, 2014).
19. Peter Wagner, Prison Policy Initiative, *Importing Constituents: Prisoners and Political Clout in New York* n. 3 (Apr. 22, 2002), <http://www.prisonpolicy.org/importing/importing.html> (citing N.Y. State Dep’t of Corr. Servs., *Characteristics of New Commitments 1999*, at 74 (2000); N.Y. State Dep’t of Corr. Servs., *The Hub System: Profile of Inmates Under Custody on January 1, 2000*, at 8 (2000)).
20. Wagner, *supra* note 19, at fig. 1.
21. Affirmation of Peter Wagner in Support of Intervenor-Defendants’ Motion for Summary Judgment and in Opposition to Plaintiffs’ Motion for Summary Judgment dated Aug. 17, at ¶ 64, see *Little v. N.Y. State Task Force on Demographic Research & Reapportionment*, No. 2310-2011 (Sup. Ct. N.Y. Dec. 1, 2011), available at http://www.prisonersofthecensus.org/little/Intervener-Defendants_SJ_motion.pdf (citing U.S. Census Bureau, *American FactFinder*, available at http://factfinder.census.gov/home/saff/main.html?_lang=en (last visited Aug. 15, 2011, 6:25pm) (data for New York State); N.Y. State Dep’t of Corr. Servs., *The HUB System: Profiles of Inmates Under Custody on January 1, 2008*, at i (2008), available at http://www.doccs.ny.gov/Research/Reports/2008/Hub_Report_2008.pdf).
22. Memorandum in Support of Motion to Intervene dated May 17, 2011 (“Little Intervention Memo”) at 4-5, see *Little*, No. 2310-2011 (N.Y. Sup. Ct. Dec. 1, 2011), available at [http://www.prisonersofthecensus.org/little/Motion_to_Intervene_Package_\(for_service\).pdf](http://www.prisonersofthecensus.org/little/Motion_to_Intervene_Package_(for_service).pdf) (citing N.Y. State Dep’t of Corr. Servs., *supra* note 21, at ii).
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24. Jennifer Fusco, *1/2 of Rome Ward’s Residents Are Prisoners*, Utica Observer-Dispatch (updated Feb. 19, 2010, 7:00 PM), available at <http://www.uticaod.com/article/20100219/News/302199905>; Staff Report, *Our View: Don’t Count Prisoners With Voters*, Utica Observer-Dispatch (updated Feb. 26, 2010, 11:09 PM), available at <http://www.uticaod.com/x169476627/Our-view-Don-t-count-prisoners-with-voters>.
25. N.Y. State Legis. Task Force on Demographic Research & Reapportionment, *2000 census Data by Senate District*, <http://www.latfor.state.ny.us/data/2000files/2000sen-prof.pdf> (last visited July 29, 2014); Memorandum from Michael A. Carvin to Sens. Joseph Bruno & Dean Skelos (Mar. 7, 2002), available at <http://www.latfor.state.ny.us/faqs/docs/2012senatesize.pdf>.
26. The New York Constitution provides that, “[f]or the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his or her presence or absence . . . while confined in any public prison.”

- N.Y. Const. art. II, § 4; *see also* N.Y. Elec. Law § 5-104(1) (McKinney 2010).
27. Prison Policy Institute, *Gerrymandering and Relying on the Miscount of Prisoners Combine to Violate the U.S. Constitution in New York* (last visited June 30, 2014), <http://www.prisonersofthecensus.org/nygerrymander.html>.
 28. Wagner, *supra* note 19, at fig. 3.
 29. Letter from A Better Way Foundation et al. to Thomas Mesenbourg, Acting Director, U.S. Census Bureau (Feb. 14, 2013), *available at* <http://www.prisonersofthecensus.org/letters/feb2013.html>.
 30. Barbara Owen & Anna Chan, Ctr. for Survey Measurement, Research and Methodology Directorate, U.S. Census Bureau, *Ethnographic Study of the Group Quarters Population in the 2010 census: Jails and Prisons* 37-38 (Apr. 25, 2013), *available at* <http://www.census.gov/srd/papers/pdf/ssm2013-13.pdf>. The study's authors explain: "Given our knowledge about correctional populations and their potential for self-enumeration, a true self-enumeration pilot in one or more prisons could be conducted to determine the utility of inmate-completed forms." *Id.* The study presents a detailed analysis of how the 2010 census was conducted in two women's state prisons and in one county jail, with additional information from observations of the collection of American Community Survey data in a large male state prison and other facilities. It was not intended to be a review of the feasibility of enumerating incarcerated people at alternative addresses, but its review of existing practices and its suggestions for how those practices could be improved, make it a valuable first step.
 31. Robert Graves, U.S. Census Bureau, *So How Do You Handle Prisons?*, Director's Blog (Mar. 1, 2010), <http://directorsblog.blogs.census.gov/2010/03/01/so-how-do-you-handle-prisons/>.
 32. Bills have been introduced in: Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Rhode Island, and Texas. Bill information is available at <http://www.prisonersofthecensus.org/legislation.html>.
 33. A list of local governments that avoid prison gerrymandering is available at <http://www.prisonersofthecensus.org/local/>.
 34. *See e.g.*, Assemb. B. 420, 2011-12 Leg., Reg. Sess. (Ca. 2011); H.B. 384, 145th Gen. Assemb., Reg. Sess. (Del. 2010); No Representation Without Population Act, H.B. 496, 2010 Leg., Reg. Sess. (Md. 2010); N.Y. Legis. Law § 83-m (McKinney 2011).
 35. Md. Code Regs. 34.05.01.04 (C) (2010).
 36. Md. Code Ann., State Gov't § 2-2A-01 (West 2010) (affecting legislative districts for the General Assembly); Md. Code Ann., Elec. Law § 8-701 (West 2010) (affecting districts for congressional Representatives); Md. Code Ann., Political Subdivisions—Miscellaneous Provisions art. 24§ 1-111 (West 2010) (affecting legislative districts for county and municipal corporations).
 37. Md. Code Ann., State Gov't § 2-2A-01 (West 2010) (affecting legislative districts for the General Assembly); Md. Code Ann., Elec. Law § 8-701 (West 2010) (affecting districts for congressional Representatives); Md. Code Ann., Political Subdivisions—Miscellaneous Provisions art. 24§ 1-111 (West 2010) (affecting legislative districts for county and municipal corporations).
 38. Md. Const. art. III, § 5.
 39. *Id.* (the deadline for the state legislative redistricting plan was January 11, 2012. *See* Md. Dep't of Planning, *Redistricting FAQs* (last updated Jan. 20, 2013), <http://planning.maryland.gov/redistricting/faq.shtml>).
 40. *Id.*
 41. *Id.*
 42. Md. Dep't of Planning, *supra* note 39.
 43. *Id.*
 44. *Id.*
 45. Md. Code Ann., State Fin. & Proc. § 5-301 (West 2000).
 46. Interview with Matthew Power, Deputy Sec'y, Md. Dep't of Planning (Dec. 19, 2012).
 47. For a helpful introduction to geocoding, see Daniel W. Goldberg, *A Geocoding Best Practice Guide* (Nov. 2008), *available at* http://www.naacrr.org/LinkClick.aspx?fileticket=ZKekM8k_IQ0%3D&tabid=239&mid=699
 48. Md. Code Regs. 34.05.01.03 (B)(4)(a)-(b) (2010).
 49. *Id.* at 34.05.01.04 (B).
 50. *Id.* at 34.05.01.04 (C)(1).
 51. *Id.* at 34.05.01.04 (D).
 52. Letter from Richard E. Hall, Secretary, Md. Dep't of Planning & Karl Aro, Director, Md. Dep't of Legislative Servs., to Matthew Mellady, Fed. Bureau of Prisons, U.S. Dep't of Justice (July 22, 2010) (on file with author).
 53. 5 U.S.C. § 552a (1996).
 54. Letter from Alecia S. Sillah, Fed. Bureau of Prisons, U.S. Dep't of Justice, to Richard E. Hall, Md. Dep't of Planning (Oct. 7, 2010) (on file with author).
 55. Declaration of James Cannistra dated Dec. 1, 2011, (No. 8:11-cv-03220-RWT). ("Cannistra Decl.") at ¶ 12, *available at* http://www.prisonersofthecensus.org/fletcher/AG_exhibit_2.pdf; *see also* Fletcher v. Lamone, 831 F. Supp.2d 887 (D. Md. 2011).
 56. Cannistra Decl., *supra* note 55, at ¶ 12.
 57. *Id.*
 58. Affidavit of Kevin Combs dated Dec. 1, 2011 at ¶ 3, *see* Fletcher, 831 F. Supp.2d 887 (D. Md. 2011) (No. 8:11-cv-03220-RWT), *available at* http://www.prisonersofthecensus.org/fletcher/AG_exhibit_3.pdf.
 59. *Id.* at ¶ 4.
 60. *Id.*
 61. *Id.* at ¶ 6; Telephone Interview with Felicia Hinton, Assistant Comm'r, Md. Dep't of Pub. Safety & Corr. Servs. (March 15, 2013).
 62. Cannistra Decl., *supra* note 55, at ¶¶ 2,3.
 63. Caliper Corp., *Maryland 2010 census Prisoner Adjustment Final Report 4* (March 23, 2011), *available at* http://www.prisonersofthecensus.org/fletcher/AG_exhibit_4.pdf.
 64. Defendants' Motion to Dismiss dated Dec. 2, 2011 at exh. 23, *see* Fletcher, 831 F. Supp.2d 887 (D. Md. 2011) (No. 8:11-cv-03220-RWT), *available at* http://www.prisonersofthecensus.org/fletcher/AG_exhibit_23.pdf.
 65. Cannistra Decl., *supra* note 55, at ¶ 6. The addresses that could not be geocoded broke down as follows:

Segregated Addresses	Number	Percent of Total
Correctional Facility	249	1.13%
Incomplete Address	111	0.50%
No Address or Homeless	1,635	7.41%
Out-of-State	1,326	6.01%

Post Office Box	20	0.09%
Rural Route Box	17	0.08%
Total	3,358	15.22%

66. *Id.* at ¶ 7.
67. *Id.* at ¶ 9.
68. *Id.* at ¶ 10.
69. *Id.* at ¶ 10.
70. After MDP re-categorized some special cases, 16,988 (77%) incarcerated individuals were assigned to their home addresses, 3755 (17%) were assigned to the correctional facilities, and 1321 (6%) were reallocated out of Maryland census data as out-of-state residents. *Id.* at ¶ 17.
71. Caliper Corp., *supra* note 63, at 14.
72. *Id.*
73. Balt., Md., Charter, art. III, § 7(b).
74. *Id.*
75. The Legacy Foundation's stated mission is "to advance individual liberty, free enterprise and limited, accountable government." Legacy Foundation, Mission Statement <http://legacyfoundation.us/why-the-legacy-foundation/> (last visited June 30, 2014). To access the Legacy Foundation's case filings, see Legacy Foundation, *Case Filings*, <http://legacyfoundation.us/case-filings/> (last visited June 30, 2014).
76. Annie Linskey, *Iowa Group to Fund Suit Against Maryland's Congressional Map*, Balt. Sun (Nov. 10, 2011), available at <http://www.baltimoresun.com/news/maryland/bs-md-redistricting-lawsuit-20111110,0,848688.story>.
77. *Fletcher v. Lamone*, 831 F. Supp.2d 887, 894 (D. Md. 2011).
78. Complaint dated Nov. 10, 2011 at ¶¶ 49-54, see *Fletcher*, 831 F. Supp.2d 887 (D. Md. 2011) (No. 8:11-cv-03220-RWT), 2011 WL 9467560.
79. *Id.* at ¶ 70.
80. Brief for Howard Univ. Sch. of Law Civil Rights Clinic et al. as Amici Curiae Supporting Defendants dated Dec. 2, 2011, see *Fletcher*, 831 F. Supp.2d 887 (D. Md. 2011) (No. 8:11-cv-03220-RWT), available at http://www.prisonersofthecensus.org/fletcher/Final_Fletcher_amicus_with_affidavit_and_service.pdf.
81. *Id.* at 4-5.
82. *Fletcher*, 831 F. Supp.2d at 897.
83. *Id.* at 894-95 (relying on *Karcher v. Daggett*, 462 U.S. 725, 732 n. 4, 738 (1983)).
84. *Id.* at 895.
85. *Id.* at 896.
86. *Id.* at 897.
87. *Id.*
88. 133 S. Ct. 29 (2012).
89. New York law designates LATFOR as the body responsible for the "preparation and formulation of a reapportionment plan . . . and the utilization of census and other demographic and statistical data for policy analysis, program development and program evaluation purposes for the legislature." N.Y. Legis. Law § 83-m(3) (McKinney 2013). The task force is bipartisan and consists of six members, two of whom are appointed by the state senate president, two of whom are appointed by the speaker of the assembly and one each appointed by the minority leaders of the senate and assembly. *Id.* at § 83-m(2). Four task force members are members of the legislature and two are not. *Id.*
90. N.Y. Correct. Law § 71(8)(a) (McKinney 2011).
91. N.Y. Legis. Law § 83-m(13)(b) (McKinney 2011).
92. *Id.*
93. *Id.*
94. N.Y. Mun. Home Rule Law § 10 (1)(a)(13)(c) (McKinney 2011).
95. N.Y. Legis. Law § 83-m(13)(b) (McKinney 2011).
96. *Id.*
97. 5 U.S.C. § 552a (1996).
98. See Kris W. Kobach, *Adjustment to the 2010 U.S. Decennial census*, (July 26, 2011) available at <https://www.kssos.org/forms/elections/2010CensusAdj.pdf>.
99. Complaint dated Apr. 4, 2011 at ¶ 2, see *Little*, No. 2310-2011 (N.Y. Sup. Ct. Dec. 1, 2011), available at <http://www.prisonersofthecensus.org/little/complaint.pdf>.
100. N.Y. Const. art. III, § 4.
101. Complaint dated Apr. 4, 2011, *supra* note 99, at ¶¶ 86-87.
102. Little Intervention Memo, *supra* note 22, at 2-3.
103. *Little*, No. 2310-2011 (N.Y. Sup. Ct. Dec. 1, 2011), available at http://www.prisonersofthecensus.org/little/Decision_and_Order.pdf.
104. *Id.* at 7.
105. *Id.*
106. N.Y. Const. art. III, § 4; N.Y. Legis. Law § 93 (McKinney 2013).
107. N.Y. Legis. Law § 83-m (McKinney 2011).
108. *Cf. id.* at § 83-m(5) ("The primary function of the task force shall be to compile and analyze data, conduct research for and make reports and recommendations to the legislature, legislative commissions and other legislative task forces.").
109. Letter from Sen. Martin Malavé Dilan & Assemb. Carl E. Heastie, Co-Chairs, N.Y. State Legis. Task Force on Demographic Research & Reapportionment, to Hon. Brian Fischer, Commissioner, Dep't of Corr. Servs. (sic.) (Aug. 26, 2010) (on file with author).
110. N.Y. Assemb., *Relocating Prisoners to Home Community Addresses* 1 (Sept. 2011) ("N.Y. Assemb., *Relocating Prisoners*").
111. *Id.* (spreadsheet on file with author).
112. *Id.* at 1-2.
113. *Id.* at 2.
114. As a result of the 2013 Supreme Court ruling in *Shelby County v. Holder*, 133 S.Ct. 2612 (2013) striking down the Voting Rights Act's preclearance coverage formula, these counties are no longer required to pre-clear changes to their voting laws.
115. Letter from Joel Graber, Special Litig. Counsel, Office of the N.Y. Att'y Gen., to Christian Herren, Jr., Chief, Voting Section, U.S. Dep't of Justice (Mar. 7, 2011), available at <http://www.prisonersofthecensus.org/little/NYS-Sec5-partxx-submission.pdf>.
116. *Cf.* Letter from T. Christian Herren, Jr., Chief, Voting Section, U.S. Dep't of Justice, to Joel Graber, Special Litig.

- Counsel, Office of the N.Y. Att’y Gen. (May 9, 2011) (stating that the U.S. Attorney General raises no objections to the law), available at http://www.prisonersofthecensus.org/little/doj_preclearance_letter.pdf.
117. N.Y. Assemb., *Subtracting Prisoners from the Address of Incarceration* 5 (Sept. 2011) (“N.Y. Assemb., *Subtracting Prisoners*”).
 118. *Id.*
 119. *Id.*
 120. *Id.* at 5-6.
 121. Memorandum from Isaac Fefer, Senior Demographer, Bruce Ruiz, GIS Manager & Marisa Vallvé, Senior GIS Analyst, to Debra A. Levine & Lewis M. Hoppe, Co-Executive Directors, N.Y. State Legis. Task Force on Demographic Research & Reapportionment 3 (Jan. 5, 2012) (“LATFOR Adjustment Memo”), available at http://www.latfor.state.ny.us/justice2012/assembly/007Joint%20Exhibit%207%20--%20Prisoner%20Allocation%20Documents/0_ReadMe.pdf.
 122. N.Y. Assemb., *Subtracting Prisoners*, *supra* note 117, at 6.
 123. N.Y. Assemb., *Relocating Prisoners*, *supra* note 110, at 2. Note that this data included only state prison data, not federal.
 124. *Id.*
 125. *Id.*
 126. *Id.*
 127. *Id.* at 4.
 128. *Id.*
 129. *Id.*
 130. *Id.* at 5.
 131. *Id.*
 132. LATFOR Adjustment Memo, *supra* note 121, at 1.
 133. N.Y. Assemb., *Relocating Prisoners*, *supra* note 110, at 8.
 134. *Id.*
 135. LATFOR Adjustment Memo, *supra* note 121, at 1.
 136. *Id.* at 2.
 137. *Id.*
 138. *Id.*
 139. *Id.*
 140. N.Y. Legis. Law § 83-m(13)(b) (McKinney 2011).
 141. Last year, more than 200 organizations signed a letter urging the Census Bureau to conduct the research necessary to ensure that the 2020 census counts incarcerated people at their home addresses. Letter from A Better Way Foundation et al., *supra* note 29.
 142. Interview with Matthew Power, *supra* note 46; Telephone Interview with Felicia Hinton, *supra* note 61; Telephone Interview with Debra Levine & Lewis Hoppe, Co-Executive Directors, N.Y. State Legis. Task Force on Demographic Research & Reapportionment (Feb. 6, 2013).
 143. The Bureau of Justice Statistics conducted a survey of state correctional data systems in 1998, finding that the majority of state prison systems had mostly complete electronic records of home addresses. See Bureau of Justice Statistics et al., *State and Federal Corrections Information Systems: An Inventory of Data Elements and an Assessment of Reporting Capabilities*, Bureau of Justice Statistics (Aug. 1998), available at <http://www.bjs.gov/content/pub/pdf/sfcisq.pdf>. The Census Bureau should determine how these data collections have improved in the last sixteen years, and consider how the Bureau can help these systems continue to improve as 2020 approaches. Further, the Census Bureau may wish to explore the state of data collection in the nation’s largest jail systems; the fifty largest jail systems in the U.S. hold more than a third of the nation’s jail population.
 144. The OMB standards provide a common language to promote uniformity and comparability for data on race and ethnicity and were developed in cooperation with federal agencies, including the Census Bureau, to provide consistent data on race and ethnicity throughout the federal government. For an explanation of OMB standards, see Office of Mgmt. & Budget, *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity* (Oct. 30, 1997), available at http://www.whitehouse.gov/omb/fedreg_1997standards/.
 145. Owen & Chan, *supra* note 30, at 37.
 146. Prison Policy Initiative, *Example Bill: Ending Prison-Based Gerrymandering in Your State* (last updated Feb. 26, 2014), available at <http://www.prisonersofthecensus.org/models/example.html>.
 147. Office of Mgmt. & Budget, *supra* note 144.
 148. Interview with Matthew Power, *supra* note 46; Telephone Interview with Debra Levine & Lewis Hoppe, *supra* note 142.
 149. Maryland continues to maintain all redistricting related information (legislation, adjusted data, maps, etc.) on MDP’s website at <http://planning.maryland.gov/Redistricting/>. New York maintains its data on the LATFOR website at <http://www.latfor.state.ny.us/data/>.

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220 Fifth Avenue, 2nd Fl.
New York, NY 10001
212.633.1405