

**Office of the Volunteer State Chair**

**1628 Woodgate Way**

**Tallahassee, FL 32308-0530**

**(850) 524-9946**

July 14, 2015

Karen Humes

Chief, Population Division

U.S. Census Bureau, Room 5H174

Washington, DC 20233

Dear Ms. Humes,

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.

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.

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. In Florida, the growth of the prison population in recent decades has been enormous. In 2000, there were 71,616[[1]](#footnote-1) individuals incarcerated by the Florida Department of Corrections, whereas today there are just over 102,000[[2]](#footnote-2) individuals incarcerated, an increase of 42.4%. In that same time period, Florida’s population grew by only 17.6%.[[3]](#footnote-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 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 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.

Sincerely,

Peter A. Butzin, Chair

Common Cause/Florida

1. *Prison Populations on June 30, 2000*, Prison Policy Initiative, *available at* <http://www.prisonersofthecensus.org/resources/prisons2000.html>. [↑](#footnote-ref-1)
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>. [↑](#footnote-ref-2)
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>. [↑](#footnote-ref-3)