



To: Barry R. Finegold  
Senate Chair, Joint Committee on Election Laws  
From: Leah C. Aden, Assistant Counsel, NAACP Legal Defense & Educational Fund, Inc.  
Date: March 27, 2013  
Re: Support for Resolution SB 309/HB 3185

The NAACP Legal Defense & Educational Fund, Inc. (“LDF”) submits this memo to express its support for Resolution SB 309/HB 3185, which calls on the U.S. Census Bureau (“Census Bureau”) to change its methodology for counting incarcerated people and, therefore, assists in bringing the Massachusetts’s election districting process in line with basic principles of democracy.

The Census Bureau currently counts incarcerated people at the address of their prison location, rather than at the address of their home. This practice, commonly known as prison-based gerrymandering, violates the one person, one vote principle. Under the United States Constitution, election districts must be roughly equal in size, such that elected officials represent the same number of constituents. However, prison-based gerrymandering artificially inflates population numbers, and thus, political influence, in districts where prisons are located. Conversely, this practice dilutes the population numbers, and, thus, political influence, in districts where prisons are not located.

Resolution SB 309/HB 3185 urges the Census Bureau to henceforth provide redistricting data that counts incarcerated people at their pre-incarceration home address where, for legal purposes, they continue to reside. This request makes sense. It is at their home address that incarcerated people maintain ties to the outside world through their families and other relationships in their home communities. At the end of their sentences, incarcerated people are released to those home communities. The average length of incarceration is less than three years, but the prison count remains in effect for a decade.

In contrast, incarcerated people do not obtain legal residence in a particular district by being temporarily confined there. Incarcerated people do not choose the districts where they are institutionalized, and can be moved at any time at the discretion of the Department of Corrections. They have no opportunities to interact with or develop enduring ties to the communities that surround the prison facilities. They cannot use local services such as parks or libraries. And, of course, incarcerated people cannot vote in those communities and, thus, be considered political “constituents” of those districts in any ordinary sense of the word. Counting incarcerated people as residents of communities anywhere, but at their legal home address, deprives districts of the level of political representation to which incarcerated people are entitled.

By changing the methodology for counting incarcerated people, as called for by Resolution SB 309/HB 3185, the Census Bureau can begin to provide states like Massachusetts with population data that accurately reflects where *all* state inhabitants reside.



Black people living in Massachusetts are incarcerated at a rate approximately 8 times higher than are White people. Prison-based gerrymandering unfairly dilutes the voting strength of communities of color, and undermines principles of fair representation. LDF, the nation's oldest and premier civil rights law firm, is committed to the full and equal participation of all persons in our democracy, and supports Resolution SB 309/HB 3185.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah C. Aden", is written over a horizontal line.

Leah C. Aden  
Assistant Counsel, Political Participation Group  
NAACP Legal Defense & Educational Fund, Inc.  
99 Hudson St., Ste. 1600  
New York, NY 10013

cc: Ryan Haygood (by email only)  
Director, LDF's Political Participation Group



To: James M. Murphy  
House Chair, Joint Committee on Election Laws  
From: Leah C. Aden, Assistant Counsel, NAACP Legal Defense & Educational Fund, Inc.  
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