

COMMENTS FROM 35 PHILANTHROPIC INSTITUTIONS URGING THE CENSUS BUREAU TO COUNT INCARCERATED POPULATIONS IN THEIR HOME RESIDENCE

August 31, 2016

Ms. Karen Humes
Chief, Population Division
U.S. Census Bureau
Room 6H174
Washington, DC 20233

RE: 2020 Census Residence Criteria and Residence Situations

Dear Ms. Humes:

The undersigned philanthropy leaders appreciate the opportunity to submit these comments in response to the Census Bureau's *Federal Register* notice regarding the 2020 Residence Criteria and Residence Situations, 81 FR 42577 (June 30, 2016) and the extension on the comment period announced on July 25, 2016.

The census is enshrined in the first Article of the U.S. Constitution as an essential element of our democracy. Beyond the fact that the census is the basis for apportioning seats in the U.S. House of Representatives, the data are used to draw congressional and state districts; distribute billions of dollars in federal funds to states and localities; provide evidence in litigation, such as cases dealing with civil rights and election-related issues; determine community-based service needs such as programs supporting children and low-income families; assess the implementation of laws addressing equity in education, housing, the workplace, and criminal justice; guide companies in locating businesses and hiring employees; and much more.

Our institutions and our grantees are heavily dependent on census data in the philanthropic work we undertake. Therefore, we are committed to preserving and enhancing the integrity and accuracy of the census and improving the count of those segments of the population that historically and persistently have been missed in prior censuses, including communities of color, immigrants, young children, and rural and low-income populations. In fact, many of us are funding activities that support the Census Bureau's mission for an accurate 2020 census.

We share the Bureau's goal of a fair and accurate census. However, counting every person is not enough; they must be counted in the right location to ensure a truly accurate result. Accordingly, we are very concerned that the proposal for 2020 residence criteria continues to count people who are incarcerated on Census Day in the prison facility rather than their pre- and post-incarceration home.

The Census Bureau defines "usual residence" as the place where a person "eats and sleeps most of the time," but fails to follow that principle when counting incarcerated people, who are regularly moved between facilities while incarcerated. Such people are "usual residents" of the home (and community) in which they lived before the government moved them involuntarily to a temporary prison setting. The expectation is that the incarcerated individual will again return home once the period of detention has been served.

When the Bureau sought comments last year on its residence rules for 2020, 96 percent of the submissions regarding residence rules for incarcerated persons urged the Bureau to count

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incarcerated persons at their home address, which is almost always their legal address. This level of consensus among stakeholders and experts, which is based on a thorough understanding of the realities of modern incarceration, is extraordinary and deserves far more consideration than it was given.

Moreover, the Bureau's proposed method of counting the incarcerated population is inconsistent with its proposal for counting other groups that eat and sleep in a location that is not their usual residence. For example, the Bureau decided that other populations, such as military personnel deployed overseas, should be counted at their home address despite lengthy absences from their usual residences during the time of the census. It revised the criteria for deployed military personnel even though there were far fewer comments related to this subject than on the prison miscount. This calls into question the utility of the public comment process.

Additionally, the proposed rules will count boarding school students at their home address, even if they spend most of their time at the school. The proposed residence criteria would also count juveniles in residential treatment centers at their home because "most people in residential treatment centers for juveniles only stay at the facility temporarily and often have a usual home elsewhere that they return to after treatment is completed." These cases are identical to the situation for incarcerated people: It is a temporary stay, and they have a usual home elsewhere to which they will return to once the sentence is served.

Accordingly, we are disappointed that the Census Bureau continues to carve out an unexplained and unsupported exception for incarcerated people that counts them in the wrong place, creating unwelcome and damaging distortions to our democracy.

American demographics and living situations have changed dramatically in the two centuries 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. Those changes, however, have not extended to counting incarcerated people in the right place. This reduces the accuracy of the census data for communities of color, in particular, with significant results. For example, because African Americans and Latinos are disproportionately incarcerated, counting incarcerated people in the wrong location is especially detrimental to ensuring proper political representation of these communities.

In conclusion, we believe that in order to produce an accurate 2020 census, the Bureau should count incarcerated people at their home address, not at the prison facility where they happen to be located on Census Day. We hope the Bureau's final 2020 Census Residence Criteria reflects this change for the 2020 census.

Thank you for this opportunity to comment on the 2020 Residence Criteria and Residence Situations. For further information, please contact Luke Freedman (Luke@tfreedmanconsulting.com).

Sincerely (in alphabetical order by philanthropic institution name),

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