



November 29, 2021

Dear Members of the Special Commission on Reapportionment:

At your November 15<sup>th</sup> meeting several commissioners asked why people incarcerated at the Adult Correctional Institutions (ACI) should be treated differently from other populations who are part of the Group Quarters program of the census. As we explain below, Rhode Island law treats those who are incarcerated differently than students, those in nursing facilities, etc. We also explain why the “usual residence” rule employed by the Census Bureau should not be used to count people who are incarcerated at the prison complex.

#### **Prison facilities versus other types of group quarters**

As we have stated in previous testimony, Rhode Island General Laws § 17-1-3.1 states unambiguously that for purposes of voting, a person’s place or residence does not change because of their “confinement in a correctional facility.” Rhode Island law does not single out any other population housed in group quarters in a similar fashion.

The Census Bureau uses a “usual residence” rule for determining where various populations should be counted on April 1<sup>st</sup>. For instance, the Bureau counts hospital patients, including newborns, at their home addresses, not at the hospital. Similarly, people displaced by natural disasters are counted at their home addresses, not in temporary shelters. There are myriad different policy choices made by the Census Bureau each decade, and transitory populations not connected to a particular community are typically counted at their home addresses.

For 2020 the Bureau changed its rule for deployed military personnel, assigning them to where they were stationed prior to deployment. That change affected tens of thousands of people who were previously counted in the state (not at a specific address) where they lived prior to they or their family joining the military. This only highlights that adjustments are constantly being made by the Bureau to address special populations, just as we urge the Commission to do here for the ACI population.

Since it is our understanding the median length of stay at the ACI for those serving a sentence is approximately 99 days, and the median stay for those awaiting trial is three days, the prison does not reflect the usual residence of most of those who were held at the ACI on April 1<sup>st</sup>. Those held at the ACI are more analogous to people who are temporarily displaced from their homes than to college students or other populations who have chosen to live in a new community for a long period of time.

### **Pennsylvania**

Our groups have mentioned on several occasions that recently in Pennsylvania that state's redistricting commission reassigned those counted at prisons without a change in legislation. At your November 15<sup>th</sup> meeting Kim Brace testified that the Pennsylvania decision had been challenged. We can confirm that our research indicates there is no litigation in Pennsylvania challenging that state's decision to end prison gerrymandering.

### **Best chance to correct this problem**

As we have stated previously, this is your only opportunity to fix the problem of prison gerrymandering for the next decade. Those held at the ACI are sufficiently different, under Rhode Island law and in how little time they spend incarcerated, from other populations housed in group quarters to be deserving of this change.

Sincerely,

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