

September 18, 2019



**Testimony of ACLU of Wisconsin
In Favor of to Assembly Bill 400**

Thank you for the opportunity to provide testimony on behalf of the American Civil Liberties Union of Wisconsin, a non-partisan, non-profit organization working to protect civil liberties—including ensuring fair representation for persons and communities of color, and protecting the rights of people who are incarcerated. 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.

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.¹ Further, Wisconsin has, by far, the highest rate of incarceration for African-American men in the United States, with about 1 in 8 working-age African-American men behind bars.² Wisconsin similarly leads the nation in incarceration of Native American men, with about 1 in 13 working age Native American men behind bars.³

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.⁴

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 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

¹ <http://www.prisonpolicy.org/graphs/incsize/WI.html>, <http://legis.wisconsin.gov/lfb/publications/budget/2015-17%20Budget/Documents/Budget%20Papers/235.pdf>

² <http://www4.uwm.edu/eti/2013/BlackImprisonment.pdf>

³ *Id.*

⁴ “A Regional Housing Plan for Southeastern Wisconsin: 2035,” Southeastern Wisconsin Regional Planning Commission (March 2013) at p. 125 (attached).

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 AB 400. 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.