

**Testimony of Peter Wagner,  
Executive Director, Prison Policy Initiative**

**Before the Joint Committee on Judiciary  
of the Connecticut General Assembly**

**March 11, 2015**

**Senate Bill 980**

**Support ending prison gerrymandering, proposed bill  
language is attached**

Thank you, Chairman Coleman, Chairman Tong, and members of the Committee for providing the opportunity for me to provide written testimony after the hearing of March 6. My name is Peter Wagner and I am an attorney and Executive Director of the Massachusetts-based non-profit, non-partisan Prison Policy Initiative.<sup>1</sup> For more than a decade, I have been working to convince the Census Bureau to update their methodology and count incarcerated people as residents of their legal home addresses. Because the Census is slow to make changes, I have also been working very closely with state and local governments on creating interim solutions.

I am fully supportive of SB980's goal "to clarify that the population of a prison should not be included as part of the population of the legislative district in which the prison is located" but this bill, as written, does not do that.

---

<sup>1</sup> I am also the co-author of *Importing Constituents: Prisoners and Political Clout in Connecticut* (see <http://www.prisonersofthecensus.org/ct/> ) and numerous factsheets and articles about the problem in Connecticut. A sampling is at <http://www.prisonersofthecensus.org/connecticut.html> .

Connecticut General Statutes § 9-14 already clearly states that “No person who resides in any institution maintained by the state, shall be admitted as an elector in the town in which such institution is located, unless he proves to the satisfaction of the admitting official that he is a bona fide resident of such institution.”

I know of no one claiming that a correctional facility maintained by the Department of Correction is not in fact an “institution maintained by the state.” In fact, both Enfield and Cheshire already successfully rely on the current §9-14 to avoid prison gerrymandering in their town government. Both of these towns already refuse to use the Census Bureau’s prison counts to distort their town council districts.<sup>2</sup>

The bill’s attempt to redundantly specify than “an institution maintained by the state” includes “an institution maintained by the Department of Correction” does not add any substance to the existing statute and does nothing to reconcile Connecticut’s long standing declaration that a prison is not a residence with the fact that the state continues to draw legislative districts with incompatible federal Census data.

To meet the committee’s goal of ending prison gerrymandering, I urge you to leave §9-14 untouched and instead draft new legislation that would require various state agencies to collect and process the home addresses of incarcerated people for redistricting purposes. I’ve enclosed my suggested language in the attached appendix.

The legislative language I propose has its roots in the legislation already successfully implemented in two states, including

---

<sup>2</sup> The town of Enfield ignored the prison population when drawing its single member town council districts after the 2000 Census, and decided that no population changes warranted a redrawing of the lines after the 2010 Census. The Town of Cheshire achieved the same result in its post-2010 districts by different means: The town based its districts on registered voters, not census population.

Maryland, where the constitutionality of the law was affirmed by the U.S. Supreme Court in June 2012.<sup>3</sup>

If it is of interest, I would be happy to meet with the committee or your staff to answer any questions about the proposed language and the experience of Maryland and New York in successfully implementing similar legislation.<sup>4</sup>

### **No impact on funding**

In opposing SB 980, Rep. Mary Fritz and Cheshire Town Manager Michael Malone, expressed a desire to protect Cheshire's existing state PILOT and Education Cost Sharing Agreement funding.<sup>5</sup>

As written, SB980 does not change any existing law, so I do not see how it could impact any population-based revenue received by Cheshire. But the language I propose to end prison gerrymandering removes any doubt, declaring that home residence data: "shall not be used in the distribution of any state or federal aid."<sup>6</sup>

### **Conclusion**

I support amending Senate Bill 980 to end prison gerrymandering and have attached some suggested language for Connecticut. I oppose SB980 as currently drafted. It serves no purpose but to cast doubt on the clear meaning of Conn. Gen. Stat. §9-14 as it

---

<sup>3</sup> Maryland's law was affirmed by the U.S. Supreme Court in *Fletcher v. Lamone* (567 U.S. \_\_\_, (June 25, 2012, No. 11-1178) affirming F.Supp.2d 887 (D. Md. 2011)). New York's law similar law was upheld in state court (*Little v. New York State Task Force on Demographic Research and Reapportionment* No. 2310-2011 slip op. (NY Sup Ct. Dec. 1, 2011)). The decisions and documents from both cases are archived at <http://www.prisonersofthecensus.org/fletcher/> and <http://www.prisonersofthecensus.org/little/>.

<sup>4</sup> Also helpful on this topic is Erika Wood, *Implementing Reform: How Maryland & New York Ended Prison Gerrymandering*, Dēmos, August 2014 available at <http://www.demos.org/publication/implementing-reform-how-maryland-new-york-ended-prison-gerrymandering>

<sup>5</sup> Testimony submitted on March 6, 2015, available at [http://www.ct.gov/asp/menu/CommDocTmyBillAllComm.asp?bill=SB-00980&doc\\_year=2015](http://www.ct.gov/asp/menu/CommDocTmyBillAllComm.asp?bill=SB-00980&doc_year=2015)

<sup>6</sup> See Section 6 of my proposed bill in the appendix.

currently stands. In amending the bill and using my proposed language the state of Connecticut would take an important step towards greater electoral equality. To reiterate the facts presented by the nine Connecticut organizations<sup>7</sup> who wrote to the co-chairs in January:

Prison gerrymandering has a dramatic impact on Connecticut's democracy in general, and the voting strength of communities of color in particular. There are almost enough people incarcerated in Connecticut prisons alone to constitute an entire state house district. The prison population in Connecticut is disproportionately (73%) African-American and Latino but the Census Bureau credits most of the prison population to five majority-White towns that have large prisons. Using this flawed data to draw electoral districts serves to enhance the weight of a vote cast in those majority-White towns and dilutes the votes of everyone else in the state.<sup>8</sup>

And I concur with that letter's apt conclusion that you must:

act quickly to avoid the risk that yet another legislative redistricting cycle will take place with almost 17,000 Connecticut residents unnecessarily counted in the wrong place.<sup>9</sup>

Thank you.



Peter Wagner  
Executive Director

---

<sup>7</sup> A Better Way Foundation, ACLU of Connecticut, Career Resources, Inc., Common Cause Connecticut, Community Partners in Action, Connecticut National Association for the Advancement of Colored People (NAACP), CT Citizen Action Group, League of Women Voters of Connecticut, and National Association of Social Workers - Connecticut (NASW-CT).

<sup>8</sup> The letter is available at

<http://www.prisonersofthecensus.org/news/2015/01/07/ct-letter/>

<sup>9</sup> Id.

**Appendix**  
**Proposed language for a Connecticut bill to end prison gerrymandering**

AN ACT CONCERNING THE DETERMINATION OF THE RESIDENCE OF  
INCARCERATED PERSONS FOR PURPOSES OF LEGISLATIVE  
DISTRICTING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective July 1, 2015)

(a) In each year in which the federal decennial census is taken but in which the United States Bureau of the Census allocates incarcerated persons as residents of correctional facilities, the Department of Correction shall by May 1st of that same year deliver to the Secretary of State:

(1) a unique identifier, not including the name, or CT DOC inmate number, for each incarcerated person subject to the jurisdiction of the department on the date for which the decennial census reports population. The unique identifier shall enable the Secretary of State or the Office of Legislative Research to address inquiries about specific address records to the Department of Correction, without making it possible for anyone outside of the Department of Correction to identify the inmate to whom the address record pertains;

(2) the street address of the correctional facility in which such person was incarcerated at the time of such report;

(3) if known, the last known address of such person prior to incarceration or other legal residence;

(4) if known, the person's race, whether the person is of Hispanic or Latino origin, and whether the person is over the age of 18;

(5) any additional information as the Secretary of State may request pursuant to law.

(b) The department shall provide the information specified in paragraph (a) of this subdivision in such form as the Secretary of State shall specify.

(c) Notwithstanding any other provision of law, the information required to be provided to the Secretary of State pursuant to this subdivision shall not include the name of any incarcerated person and shall not allow for the identification of any such person therefrom, except to the Department of Correction. The information shall be treated as confidential, and shall not be disclosed by the Secretary of State or the Office of Legislative Research except as redistricting data aggregated by census block for purposes specified in Section 4.

Sec. 2. (NEW) (Effective July 1, 2015) In each year in which the federal decennial census is taken but in which the United States Bureau of the Census allocates incarcerated persons as residents of correctional facilities, The Secretary of State shall request each agency that operates a federal facility in this State that incarcerates persons convicted of a criminal offense to provide the Secretary of State with a report including the information listed in subsection (a) of section 1 of this act.

Sec. 3. (NEW) (Effective July 1, 2015) In each year in which the federal decennial census is taken but in which the United States Bureau of the Census allocates incarcerated persons as residents of correctional facilities:

(a) The Secretary of State shall promptly provide the reports including information listed in section 1 or 2 of this Act to the Office of Legislative Research. For each person included in a report received under Sections 1 and 2, the Office of Legislative Research shall determine the geographic units for which population counts are reported in the federal decennial census that contain the facility of incarceration and the legal residence as listed according to the report.

(b) For each person included in a report received under Sections 1 and 2, if the legal residence is known and in this State, the Office of Legislative Research shall:

(1) Ensure that the person is not represented in any population counts reported by the Office of Legislative Research for the geographic units that include the facility at which the person was incarcerated, unless that geographic unit also includes the person's legal residence.

(2) Ensure that any population counts reported by the Office of Legislative Research reflect the persons' residential address as reported under Sections 1 and 2.

(c) For each person included in a report received under Sections 1 and 2 for whom a legal residence is unknown or not in this State, and for all persons reported in the census as residing in a federal correctional facility for whom a report was not provided, the Office of Legislative Research shall:

(1) Ensure that the person is not represented in any population counts reported by the Office of Legislative Research for the geographic units that include the facility at which the person was incarcerated.

(2) Allocate the person to a state unit not tied to a specific determined geography, as other state residents with unknown state addresses are allocated, including but not limited to military and federal government personnel stationed overseas.

(d) The data prepared by the Office of Legislative Research pursuant to this section shall be completed and published no later than 30 days from the date that federal decennial PL94-171 data is published for the state of Connecticut.

(e) The Secretary of State shall notify local governments that Section 4 requires local governments to use the data prepared by the Office of Legislative Research pursuant to this Section for redistricting purposes.

Sec. 4. (NEW) (Effective July 1, 2015) The Office of Legislative Research shall prepare redistricting population data to reflect incarcerated persons at their residential address, pursuant to Section 3. The data prepared by the Office of Legislative Research pursuant to Section 3 shall be the basis of state house of representative districts, state senate districts, and all local government districts that are based on population. Incarcerated populations residing at unknown geographic locations within the State, as determined under subsection (c)(2) of Section 3 shall not be used to determine the ideal population of any set of districts, wards, or precincts.

Sec. 5. (NEW) (Effective July 1, 2015) The Department of Correction shall, starting within 6 months of the effective date of this statute, collect and maintain an electronic record of the legal residence, presumptively outside of the facility, and other demographic data, for any person entering its custody. At a minimum, this record shall contain the last known complete street address prior to incarceration, the person's race, whether the person is of Hispanic or Latino origin, and whether the person is over the age of 18. To the degree possible, the Department of Correction shall also allow the legal residence to be updated as appropriate.

Sec. 6. (NEW) (Effective July 1, 2015) The data prepared by the Office of Legislative Research in Section 3 shall not be used in the distribution of any state or federal aid.

**Statement of Purpose:**

To adjust Census data for redistricting purposes so that incarcerated people are properly counted at their home address, where they legally reside, and not as if they were residents of the town in which the correctional facility is located, where they are inaccurately tabulated by the Census Bureau.