



April 24, 2013

By Fax

Senator Kimberly A. Lightford
4th District
Illinois General Assembly
(f) 217.558.2068

Dear Senator Lightford:

Enclosed please find *Captive Constituents: Prison-Based Gerrymandering and the Distortion of Our Democracy*, a report by the Political Participation Group of the NAACP Legal Defense Fund (LDF).¹ With HB 62 – proposed legislation to end prison-based gerrymandering in Illinois – pending, this is an issue of vital importance to your constituents and other communities of color across the country. I am aware that you prefiled parallel legislation (as SB 1442) in the Senate and thank you for leadership. As you know, prison-based gerrymandering reform in this area is crucial to ensuring that *all* individuals in your state are represented equally in the political process, and that the voting strength of minority communities is not diluted.

As *Captive Constituents* explains, prison-based gerrymandering is a practice whereby many states, like Illinois, count incarcerated people as residents of their prison facility, rather than where they lived pre-arrest, when election district lines are drawn. This practice distorts our democratic process by artificially inflating the population count, and thus, the political influence, of the districts where prisons and jails are located. As a result, people living outside of those districts suffer a dilution of their voting power.

HB 62 calls for incarcerated people in Illinois to be counted at their last pre-incarceration hometown address where, for legal purposes, they continue to reside, rather than at their prison facility.² This makes sense. It is at their hometown address that incarcerated people maintain ties to the outside world through their families and other relationships. At the end of their sentences, incarcerated people are released to those communities. The average length of incarceration is less than three years, but the prison count remains in effect for a decade. Thus, given that incarcerated individuals remain legal residents at their home addresses, it makes little sense to treat them as “constituents” where they are incarcerated.

Moreover, the loss in voting power, as a consequence of prison-based gerrymandering, is felt most strongly in communities of color. Nationally, African American and Latino people are 13.1% and 16.7%, respectively, of the general population, but together are 60% of the federal and state prison population. In Illinois, Latino people are incarcerated at nearly 2 times the rate of white people, and African American people at over 9 times the rate of white people.

¹ You may also download our report from our website at www.naacpldf.org.

² A person does not gain or lose legal residence by virtue of being incarcerated. See *County of Franklin v. County of Henry*, 26 Ill. App. 193 (Ill.App.2 Dist. 1887) (“a person confined in prison under the judgment and sentence of a court does not thereby change his residence”).



But members of the incarcerated population are largely confined in areas that are both geographically and demographically far removed from their home communities. While the state's incarcerated population comes disproportionately from its urban areas (e.g., 60% are Chicago residents), the vast majority of them (*i.e.*, 90%) are counted as residents of downstate prisons. In fact, the average distance from Chicago to a prison is more than 200 miles. Thus, like other state legislatures across the country, prison-based gerrymandering in Illinois dilutes minority voting strength and transfers political power from urban communities of color to predominantly white areas of the state.

Notably, Delaware, New York, Maryland, and California have enacted legislation that ends prison-based gerrymandering. In fact, in 2012, the United States Supreme Court affirmed the constitutionality of Maryland's legislation, and now serves as precedent for the authority of other states, like Illinois, to adjust the population data used for redistricting, and to count incarcerated individuals at their home addresses. And, several other states, like Massachusetts, Oregon, and Rhode Island, are considering similar legislation.

Thus, we urge you support HB 62 in this legislative session when it reaches the Senate. Having obtained a tied vote in the House in 2011 on other legislation that would have addressed this issue, the time is now for this General Assembly to ensure that incarcerated populations are not counted in a manner that unfairly dilutes the voting strength of your constituents and to do so in advance of the next redistricting cycle.

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 HB 62. Accordingly, we would be happy to provide you with additional materials on prison-based gerrymandering, or to give a more detailed presentation on this issue to you, other members, or your constituents. And, as we continue to work with other partners to urge adoption of legislation to end prison-based gerrymandering, like HB 62, we also look forward to working together with you in that regard, and helping bring Illinois's electoral districting process closer in line with basic principles of democracy and political equality.

Sincerely,

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