

April 13, 2015

By email

Chairperson Cale P. Keable
House Committee on Judiciary
State of Rhode Island General Assembly
82 Smith St.
Providence, RI 02903

Dear Chairperson Keable:

The NAACP Legal Defense & Educational Fund, Inc. (“LDF”), the nation’s premier civil rights law firm, writes to urge the Rhode Island House Committee on Judiciary to pass pending legislation ([2015-H 5155](#)) to end prison-based gerrymandering in Rhode Island and, in the process, help bring the state’s redistricting process into greater conformity with the fundamental principles of an inclusive democracy.

[Prison-based gerrymandering](#), the practice of counting incarcerated people as residents of the prison communities where they are held for purposes of redistricting, rather than where they actually lived before incarceration—is unlawful precisely because it artificially inflates population numbers, and thus, the political influence, of districts where prisons are located, at the expense of voters living in all other districts in Rhode Island.

This artificial inflation of voting power often benefits more rural and suburban areas where prisons are located and where white residents predominantly live. For example, in Cranston, Ward 6 is afforded outsized political influence due to the inclusion of incarcerated people as part of their population counts; this district draws an incredible 25% of its political influence from incarcerated individuals rather than actual residents of the district.¹

Prison-based gerrymandering also disproportionately dilutes the voting strength of people of color who tend to live outside of those districts where prison facilities are located. Communities of color in other districts suffer a loss in voting power since members of the incarcerated population are largely held in areas that are both geographically and demographically far removed from their home communities. Nationally, Black people are 13.2% of the general population,² but are 37.4% of the federal and state prison population.³ In Rhode Island, Black

¹ Memorandum and Decision, *Davidson v. City of Cranston*, 1:14-cv-00091-L-LDA (Sept. 8, 2014), ECF No. 12, <http://static.prisonersofthecensus.org/davidson/ruling09082014.pdf>

² USA, United States Census Bureau, <http://quickfacts.census.gov/qfd/states/00000.html>

³ Federal Bureau of Prisoners, Inmate Race, (last updated Feb. 21, 2015) http://www.bop.gov/about/statistics/statistics_inmate_race.jsp



people are 7.5% of the state's general population, but make up 28.7% of the prison population.⁴ Latino people are 13.6% of Rhode Island's population, but 19.6% of the state's prison population.⁵

Thus, in Rhode Island, prison-based gerrymandering violates fundamental principles of law, including the one person, one vote principle, and restrictions against vote dilution based on race.

Fortunately, House Bill 5155 requires Rhode Island to count incarcerated people as residents of their pre-incarceration addresses, and draw districts (for state and local redistricting purposes) accordingly. It is consistent with Rhode Island General Laws § 17-1-3.1, under which a person's domicile shall not be lost based on confinement in a correctional facility.

Given that incarcerated individuals remain legal residents at their home addresses, they should not be treated as "constituents" where they are incarcerated. It is at their hometown address that incarcerated people maintain ties to the outside world through their families and other relationships. By contrast, they have no opportunities to interact with or develop enduring ties to the surrounding communities while imprisoned. They cannot use local services such as parks or libraries.

Most critically, incarcerated people cannot vote in the areas where they are held, and, thus, are not "constituents" of those districts in any ordinary sense. And, at the end of their sentences, incarcerated people are released to their home communities. Thus, by counting incarcerated residents of these communities elsewhere, prison-based gerrymandering deprives incarcerated people's "home" districts of the level of political representation to which they are entitled.

House Bill 5155 provides Rhode Island with the important opportunity to join other leading states like Delaware, New York, Maryland, and California that have enacted legislation that ends prison-based gerrymandering. 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 Rhode Island, to adjust the population data, used for redistricting, as proposed by 2015-H 5155, and to count incarcerated individuals at their home addresses. And, several other states, like Massachusetts, Oregon, and Illinois, are considering similar legislation.

⁴ Rhode Island Department of Corrections Planning & Research Unit, Fiscal Year 2012 Annual Population Report, p.13, <http://www.doc.ri.gov/administration/planning/docs/FY12%20Annual%20Pop%20Report.pdf>

⁵ *Id.*

