

Third, a reapportionment plan which excludes any prison inmates would violate the Rhode Island State Constitution. Under the Rhode Island State Constitution, "districts shall be as nearly equal in population ... after any new census taken by authority of the United States."⁵ The intent behind this provision is that a reapportionment plan must be based on the U.S. Census. Also, the U.S. First Circuit Court interpreted these state constitutional provisions and stated a "total-population apportionment" is "required by Rhode Island's constitution" Davidson v. City of Cranston, 837 F.3d, 135, 144. (1st Cir. 2016). This means a reapportionment plan must count prison inmates. It cannot exclude them.

Therefore, not only does the Commission not have the enabling authority to recommend a reapportionment plan which deviates from the U.S. Census but the General Assembly could be violating either the federal or state constitution by adopting a reapportionment plan, which used unreliable data to reallocate prison inmates, treated prison inmates differently based on what city they were located or excluded some prison inmates.

This is merely a preliminary legal analysis of the City of Cranston. If the Commission decides to exceed in its enabling authority and proceed in an unlawful manner, then the City of Cranston must inform the Commission that it may prepare for litigation to ensure that Cranston residents receive the representation to which it is entitled.

Sincerely,



Christopher Rawson

Deputy Solicitor, City of Cranston

⁵ R.I. State Constitution Articles VII, and VIII.