



November 19, 2021

VIA ELECTRONIC MAIL

Special Commission on Reapportionment
Rhode Island General Assembly
Providence, RI 02903
info@riredistricting.org

Re: Ending Prison Gerrymandering in Rhode Island

Dear Members of the Special Commission on Reapportionment:

LatinoJustice PRLDEF submits this letter to urge the Rhode Island Special Commission on Reapportionment (“Commission”) to bring an end to *prison gerrymandering*. Despite being bound by the idea of “*one person one vote*”¹, the process of *prison gerrymandering* threatens the very idea of equal representation among voters, especially those of *communities of color*. As this commission prepares to draw Rhode Island’s electoral districts, it is imperative that it does so in a manner which will restore power to *communities of color* that have been historically disenfranchised by a racially driven practice that dilutes the votes of urban residents.

LatinoJustice originally established as the Puerto Rican Legal Defense and Education Fund (PRLDEF) in 1972, is one of the country’s leading nonprofit civil rights law organizations. We work to advance, promote, and protect the legal rights of Latinos throughout the nation. Our work is focused on addressing systemic discrimination and ensuring equal access to justice in the advancement of voting rights, housing rights, educational equity, immigrant rights, language access rights, employment rights, and workplace justice, seeking to address all forms of discriminatory bias that adversely impact Latinos. As part of our work to protect the rights of voters, we have advocated and litigated against practices that seek to dilute the vote of minority communities such as voter roll purges, failure to provide language assistance at poll sites, and redistricting practices that give undue political power to districts with prisons. Most notably, we fought against the practice of prison gerrymandering in *Little v. LATFOR*², a case that upheld

¹ *Gray v. Sanders*, 372 U.S. 368, 379 (1963).

² *Little v. LATFOR*, No. 2310-2011 (Sup. Ct. N.Y. Dec.1, 2011).



New York's then newly passed law requiring individuals who are incarcerated to be allocated to their home communities for local and state redistricting and reapportionment.

Rhode Island engages in a racially discriminatory practice that while denying individuals the right to vote, still uses their physical existence to grant political power in voting districts which they do not call home. These districts are not invested in re-entry or education programs for those individuals who are incarcerated in their district but benefit from the ability to have districts drawn in a manner which grants them a greater voice and representation at state and federal levels. The elected officials of these "prison districts" do not represent those incarcerated therein nor do they perform any legislative services on their behalf. While the districts inflate their political power, the home districts of those who are incarcerated suffer from a dilution of voting power and representation in government. In fact, the hyper-incarceration of Black and Latino individuals not only removes them from their community and strips their voting power, but also inflates the population in white, suburban, and rural districts without adding a single voter to those districts.

Under its own election laws, Rhode Island recognizes that individuals who are incarcerated are not residents of the town in which the prison is located.

The determinant of one's domicile is that person's factual physical presence in the voting district on a *regular basis* incorporating an intention to reside for an indefinite period. This domicile is the place to which, *upon temporary absence*, he or she has the intention of returning...A person can only have one domicile, and the domicile shall not be considered lost solely by reason of absence for any of the following reasons... (2) confinement in a correctional facility³.

Rhode Island not only recognizes the transient residence of individuals incarcerated but also emphasizes that even during a temporary absence a person maintains their domicile. Thus, currently individuals incarcerated in Rhode Island are not seen as residents of the town the prisons are located but instead are still viewed as residents of their last known home address which upon release is where they will likely return. It is unfathomable that while an election law is prohibitive in an individual's ability to make a prison their domicile, for redistricting purposes their temporary physical presence in a prison is used to create sham voting districts where they

³ R.I. Gen. Laws § 17-1-3.1(a)

have no electoral voice. These districts will remain in effect for the next decade and likely far longer than the physical presence of individuals incarcerated in the district.

Cranston, Rhode Island is home to the Adult Correctional Institutions (ACI) which are 7 facilities all located within 1 square mile⁴. It is currently home to an incarcerated population of approximately 2,671 persons. Outside of the walls of the facilities, 69.4% of the population identifies as White⁵. However, inside ACI the population of individuals sentenced is approximately 26% Latino and almost 30% Black⁶. Upon release, 29.6% of the population incarcerated returns to the city of Providence an area with a 43% Latino population. Considering the fact that a large sector of those released return to areas with a predominately Latino or Black population it is evident that the practice of prison gerrymandering does nothing more than continue the disenfranchisement of these marginalized communities. There is no rationale to continue artificially inflating population in areas that within the next decade will not serve the incarcerated population.

Prison gerrymandering continues to be another method for states to disenfranchise marginalized communities. While we may not think gerrymandering is as obvious as poll taxes or literacy tests, it is equally as pervasive and destructive in preventing our communities from having equal access to the franchise. This commission must ensure that if it is to conduct a fair and equitable redistricting process then it must do so by not using the incarcerated population to inflate voting districts. It is long overdue for Rhode Island to remedy this voting practice and ensure communities of color are no longer disenfranchised.

Fulvia Vargas-De Leon
Associate Counsel
fvargasdeleon@latinojustice.org | 212.739.7580

⁴ R.I. Dep't of Corrections, *Fiscal Year 2020 Annual Population Report 4* (Sept. 2020), <http://www.doc.ri.gov/docs/FY20%20Annual%20Population%20Report.pdf>

⁵ <https://www.census.gov/quickfacts/fact/table/cranstoncityrhodeisland/POP010220>

⁶ R.I. Dep't of Corrections, *supra* note 4, at 13.