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ACLU OF RI POSITION: SUPPORT

TESTIMONY IN SUPPORT OF 22-S 2257, RELATING TO RESIDENCE OF INDIVIDUALS IN GOVERNMENT CUSTODY February 15, 2022

As we mentioned in our testimony last week on the Senate’s redistricting bill, the problem of prison gerrymandering remains an important one for our organization. We are therefore pleased with the first step the committee took in approving that bill, which begins to address this issue. That first step – reallocating those inmates who were serving a sentence of two years or less on Census day – means that approximately 41% of the prison population was reallocated to their home district. We urge this committee to take the next step – even if it doesn’t take effect for a decade – and join the dozen other states that reallocate their *entire* prison population (to the extent their home addresses are known).

We realize this next step could not come to fruition until the next reapportionment is done a decade from now (and for that reason, we would support an amendment to this bill’s effective date in that respect), but we urge the Senate to pass the legislation *this year* so that this issue need not take up the Committee’s time again and so you solve the problem once and for all for your successors. We note that Illinois took that step, passing a prison gerrymandering ban that takes effect for the 2030 census.

Twelve other states have addressed prison gerrymandering by reassigning those who were counted at correctional institutions, but only one state, Pennsylvania, differentiates by the length of sentence, and in that case the state reassigns everyone serving a term of less than 10 years, not two. Rhode Island should fully join all those other states that have universally addressed this problem. In fact, this committee twice passed this legislation when it was sponsored by Sen. Metts, only to see it die in the House.

There are also a number of equity reasons for the General Assembly to take this next step for future reapportionments. First, the individuals at the ACI are not treated as Cranston residents by the City for any other meaningful purpose. Among other things, ACI detainees and prisoners, whatever the length of their sentence, do not get to participate in Cranston’s civic life in any way; they are denied the right to send their children to Cranston schools based on their ACI address,¹ something that should be allowed if they truly were city residents; and Cranston’s elected officials

¹ “Rhode Island Mayor: Prisoners count as residents when it helps me, not when it helps them,” by Sarah Mayeux, March 31, 2010. <https://www.prisonersofthecensus.org/news/2010/03/31/rimayo/>

do not campaign or endeavor to represent their purported ACI “constituents.”² Instead, just as state election law specifies that people do not lose their residence for voting purposes by being incarcerated, redistricting should recognize and reject the under-representation of those communities – generally poorer ones – that is the result of prison gerrymandering.

It is also crucial to remember that efforts to address prison gerrymandering seek to counter two evils: the under-representation of communities from where people at the ACI have come, and the *over-representation* of the communities where prisons are located. By continuing to count hundreds of incarcerated individuals as residents of the ACI, the Cranston districts encompassing the prison facilities will continue to have inappropriately greater electoral power than all other districts in the state, as they will be representing a much smaller base of residents.

Finally, in the past, some expressed opposition to this bill in the erroneous belief that it might somehow affect Cranston’s funding. The action taken by this committee in passing the redistricting legislation is testament to the fact this is simply not the case.

For all these reasons, urge that you take the step of abolishing ACI prison gerrymandering for future reapportionments so that this debate does not need to continue for the next ten years. It can be done by simply adding a prospective effective date to the bill.

We thank you in advance for considering our comments.

² *Davidson v. City of Cranston*, 188 F.Supp.3d 146, 147-148 (D.R.I. 2016), reversed on other grounds, 837 F.3d 135 (1st Cir. 2016).