

EXHIBIT 5

**Kate Calvin, et al., v.
Jefferson County Board of Commissioners, et al.
c.v. 4:15-cv-00131-MW-CAS**

**EXPERT REPORT/DECLARATION OF
PETER WAGNER, J.D.**

Executive Summary

It is quite common – and easy – for counties and other local jurisdictions that contain correctional facilities to adjust the U.S. Census data prior to redistricting.

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Introduction

I am an attorney and the Executive Director of the Prison Policy Initiative, a nonprofit research organization based in Easthampton, Massachusetts.

For more than 14 years, I have been working to both quantify the harm to democracy caused by the Census Bureau’s prison count and to develop federal, state, and local solutions.

I have been retained by the plaintiffs as an expert on how counties, school boards, and other local governments that contain large prisons within their borders draw their electoral districts and to address whether it is difficult to ensure fair representation in a local government body that contains a prison.

Relevant experience

As detailed on my c.v., I have spent the last 14 years conducting research on the harms of counting incarcerated people in the wrong place and developing interim and long-term solutions at the federal, state, and local level.

Given the dramatic impact that a single large prison can have on a relatively small county, school board, or other local governmental electoral district, surveying how these local governments address the problem – and developing solutions for these governments – is a major part of our work.

I led a team of researchers to survey local governments, collect and analyze the evidence, and publish our findings for both the 2000 and 2010 redistricting cycles. I developed the methodology for this project, and published it as an online report called the *Democracy Toolkit: Interactive tools to help rural citizens determine if prison populations in legislative districts are diluting their right to equal representation* available on the internet at <http://prisonersofthecensus.org/toolkit/>.

In addition to my state and county-specific research and reports, I published a law review article about the best practices for state and local governments in regards to prison gerrymandering.¹

I have made numerous invited presentations based on my research on the redistricting implications of the Census Bureau's prison counts, including to the U.S. Census Bureau and the National Research Council of the National Academies.

I have also testified in federal court during trial, during deposition, and through expert reports on the geography of sex offender exclusion zones

¹ Wagner, Peter (2012) "Breaking the Census: Redistricting in an Era of Mass Incarceration," *William Mitchell Law Review*: Vol. 38: Iss. 4, Article 9. Available at: <http://open.wmitchell.edu/wmlr/vol38/iss4/9>

in 4 cases in Alabama, Colorado, Georgia, and Michigan as well as in two state cases in Massachusetts. The testimony, depositions and reports in the last four years were in *John Doe #1 vs. Richard Synder* (Eastern District of Michigan, Southern Division 2:12-cv-11194-RHC-DRG); *McGuire vs. City of Montgomery* (Middle District of Alabama, Northern Division 2:11-cv-01027-WKW-CSC), *Ryals v. Englewood* (District of Colorado 12-cv-02178-RBJ), and *Three Registered Sex Offenders v. the City of Lynn* (Essex County, Massachusetts Superior Court, ESCV2012-00749-A)

Background: Census Bureau rules and datasets on incarcerated people

The U.S. Census Bureau counts people at their “usual residence”. For some people, determining their “usual residence” is obvious, but for a growing number of Americans, it is not. In response to changing demographics and living situations the Census Bureau’s application of the usual residence rule has evolved since the first census was taken in 1790. The Bureau’s approach to counting incarcerated people, however has not changed.

In 2010, the Bureau published 21 rules on various “residence situations”² that described the usual residence rule’s current application. Incarcerated people were designated to be “[c]ounted at the facility”.³

² Residence Rule And Residence Situations For The 2010 Census: Facts About the Census 2010 Residence Rule and Residence Situations, available at http://www.census.gov/population/www/cen2010/resid_rules/resid_rules.html

³ Residence Rule And Residence Situations, fact 16:

PEOPLE IN CORRECTIONAL FACILITIES FOR ADULTS

People in correctional residential facilities on Thursday, April 1, 2010 (Census Day) - Counted at the facility.

People in federal detention centers on Thursday, April 1, 2010 (Census Day) - Counted at the facility.

People in federal and state prisons on Thursday, April 1, 2010 (Census Day) - Counted at the facility.

People in local jails and other municipal confinement facilities on Thursday, April 1, 2010 (Census Day) - Counted at the facility.

But the Census Bureau has recognized that as the number of incarcerated people in this country has swollen to over 2 million, its outdated approach to counting incarcerated people left many jurisdictions seeking redistricting data that is not skewed by incarcerated populations.

As background, the Census Bureau does not publish a single comprehensive or authoritative “Census”, but rather publishes population data across several Summary Files. The file most often used in redistricting is the P.L. 94-171 Summary File, named for the public law that created the dataset, while population data on group quarters is found in Summary File 1.

The P.L. 94-171 data lacks the break-out of the group quarters population that is useful to avoiding prison gerrymandering, but Summary File 1, which contains that data, is published too late for most jurisdictions faced with tight redistricting deadlines.

So for the first time, in 2011, the Census Bureau published the “2010 Census Advance Group Quarters File” specifically “so that states can leave the prisoners counted where the prisons are, delete them from the redistricting formulas, or assign them to some other locale.”⁴

The group quarters file lists how many people counted in each block were counted in a correctional facility. This enables counties to adjust the data they use for redistricting by taking the total population number reported in the P.L. 94-171 file and subtracting the number listed in the Advance Group Quarter file to achieve a more accurate count of the actual residents of each block.⁵

Seeking a state-wide solution, Maryland and New York went even further and used the Advance Group Quarters data in conjunction with

⁴ Robert Groves, then-Director of the Census Bureau, *So, How do You Handle Prisons?* Available at <http://directorsblog.blogs.census.gov/2010/03/01/so-how-do-you-handle-prisons/>

⁵ Until this file was made available, local governments had to make educated guesses about which block the Census Bureau counted the facility in, how many people reported for that block were counted at the facility, and how many were actual residents living in homes within the same block as the facility. This file precisely reports the incarcerated population for each block, making it very easy for local governments to know which block to adjust and how many of the people counted in the block actually reside in the block.

home address data from their Departments of Correction to count incarcerated people at home for redistricting purposes.⁶

In the context of Jefferson County, using the Advance Group Quarters Summary File to subtract the populations of the prisons for the two blocks that contains the correctional facility prior to redistricting is trivial⁷:

Census Tract and Block:	Total Population:	Group Quarters Correctional Population for Adults:	Adjusted Population for Redistricting:
250101 3002	1,154	1,154	0
250101 3003	3	3	0

Actions taken by local governments to adjust the Census Bureau's prison counts

In my current and on-going research, I have discovered that there are at least 225 local governments that drew their legislative districts to avoid prison gerrymandering. These governments include 152 counties, 68 cities and towns, and 5 school boards.⁸

⁶ The approach of both states was upheld in the courts. New York's law was upheld in state court (*Little v. New York State Task Force on Demographic Research and Reapportionment* No. 2310-2011 slip op. (NY Sup Ct. Dec. 1, 2011)) and Maryland's law was affirmed by the U.S. Supreme Court (*Fletcher v. Lamone*, 567 U.S. ___, (June 25, 2012, No. 11-1178) affirming F.Supp.2d 887 (D. Md. 2011).

⁷ This can get slightly more complicated if the block with the correctional facility contains a large residential population and precise figures on the racial distribution of the residential population are required. I developed a methodology that works for every block with a correctional facility except for two in Hawaii and two in New York; but that is not needed here because the entirety of the block in question is incarcerated.

⁸ For a variety of reasons, this is an undercount. Our research, particularly at the school board level, is still ongoing, and we have done very little research outside of the county/municipal/school board level to address other forms of electoral districts like water districts in California. Further, we have not exhaustively researched counties and other municipalities that are required by state law to adjust the Census Bureau's prison counts prior to redistricting as discussed later in this report. Further, I based this paragraph only on the lists we have published on our website at <http://www.prisonersofthecensus.org/local/> thereby excluding any of our research subjects where the findings have not yet been made publicly available.

Of those 152 *counties* known to have avoided prison gerrymandering, seven are in Florida: Bradford, Franklin, Gulf⁹, Lafayette¹⁰, Madison¹¹, Okeechobee¹², and Washington¹³ counties, and of the 5 *school boards* known to have avoided prison gerrymandering, 2 are in Florida: Bradford County School District and Okeechobee County School District.

In some of these states, excluding out-of-town prisoners from redistricting data action was required by state law. For example, Michigan law requires cities to draw districts on the condition that:

Residents of state institutions who cannot by law register in the city as electors shall be excluded from population computations where the number of such persons is identifiable in the census figures available. (Mich. Comp. Laws § 117.27a (5))

Michigan counties have a similar requirement¹⁴, New Jersey requires the same for school boards of nine or more members¹⁵, and Colorado law requires:

the board of county commissioners shall change the boundaries of the commissioner districts... based on the most recent federal census of the United States minus the number of persons serving a sentence of detention or confinement in any correctional facility in the county. (Colorado Revised Statutes §30-10-306.7(5)(a))

⁹ Gulf County is notable because they ignored the Attorney General opinion they requested in 2001 (FL. AG. Op 2001-55), and avoided prison gerrymandering in both the 2000 and 2010 redistricting cycles. My analysis is that Gulf County understood what may not have been made clear to the Attorney General: prison gerrymandering can be quite dramatic. My calculations reveal that the two prisons in the county could have been 95% of a post-2010 county district, giving residents near the prison 20 times the influence of residents in other districts.

¹⁰ Lafayette County did not redistrict after the 2010 Census, maintaining their old lines. The County claims that their districts are based on registered voters, so the prison was therefore not included in the population base.

¹¹ Madison County concluded that its population had not changed sufficiently over the last decade to warrant redistricting. Our analysis of the post-2000 districts revealed that those districts are not based on the prison populations.

¹² This county adjusted the census for both the prison population and the jail population.

¹³ This county did not redistrict after the 2010 Census, but instead maintained old lines drawn after the 2000 Census that did not include the prison.

¹⁴ Mich. Comp. Laws § 46.404(g)

¹⁵ N.J. Stat. Ann. § 18A:13-8; Board v. New Jersey, 372 N.J. Super. 341, 858 A.2d 576 (2004)

In some states, the statutes are less explicit, but the state nevertheless encourages their local governments to take corrective action. For example, the Mississippi Attorney General opined in 2002 that:

Inmates under the jurisdiction of the Mississippi Department of Corrections . . . are not deemed "residents" of that county or locality, as incarceration cannot be viewed as a voluntary abandonment of residency in one locale in favor of residency in the facility or jail. For purposes of the Census, these individuals should have been counted in their actual place of residence. Such inmates should not be used in determining the population of county supervisor districts for redistricting purposes by virtue of their temporary presence in a detention facility or jail in the county, unless their actual place of residence is also in the county. Opinion No. 2002-0060; 2002 WL 321998 (Miss. A.G.)

In many cases counties made this choice without being directed to by any other known government body.¹⁶

In some cases, the local government's action and rationale was explicitly documented. For example, Essex County NY wrote in their 2003 redistricting ordinance:

Persons incarcerated in state and federal correctional institutions live in a separate environment, do not participate in the life of Essex County, and do not affect the social and economic character of the towns in which . . . the correctional facilities where they are incarcerated are located.

The inclusion of these federal and state correctional facility inmates unfairly dilutes the votes or voting weight of persons residing in other towns within Essex County. This is particularly so if the 1,898 inmates in the town of North Elba are included in its population total of 8,661 since those inmates would then represent 21.914% of the town of North Elba's population.

The Board of Supervisors finds that the population base to be utilized in and by the plan apportioning the Essex County Board of Supervisors should exclude state and federal inmates. (Essex County Local Law of 2003. Available at <http://www.prisonersofthecensus.org/nycounties/essex.html>)¹⁷

There is some technical variation in exactly how local governments do these adjustments, but the choices all produce the same result for the democratic process. The specific choice is largely driven by the convenience of the technician drawing the lines. The most common techniques include:

¹⁶ My team and I interviewed about a dozen counties in Michigan who all avoided prison gerrymandering because they thought it was the right thing to do; all were unaware that they were required to do so by state law; so it is possible, although unlikely at this point, that there are other state directives I am unaware of.

¹⁷ See also at Madera County California Resolution 2011-100, regarding prison populations and supervisorial districts, available at: http://www.prisonersofthecensus.org/local/Madera_CA_resolution.pdf

- Adjusting the population for the census block that contain the correctional facility.
- Changing the shape of the jurisdiction for redistricting purposes so that it does not include the census block that contains the correctional facility. If the prison is on the border of the jurisdiction, this would move the boundary inward, and if the facility is in the middle, the final map would show a hole where the prison is located.
- By deliberating over-populating the district that contains the prison by the exact amount of the correctional population and then explaining that the apparent “deviation” is the result of the prison.

As described above, our research has discovered at least 225 local governments that used something other than total census population when redistricting including at least nine in Florida.

While these jurisdictions are a small minority of *all* counties and municipalities in the country, they are the majority of the *relevant* counties and municipalities.

Many of the nation’s more than 3,000 county or 25,000 municipal governments do not have districts, or do not have correctional facilities in their borders, so those jurisdictions are not relevant at all; and in hundreds of additional jurisdictions, the correctional facility is too small to make a difference.¹⁸

However, there are at least 98 counties and other government bodies that choose to avoid prison gerrymandering even though the potential impact was smaller than in Jefferson County. Plaintiffs alleged that the “incarcerated population at JCI constitutes a full 37.73% of the people who make up District 3”,¹⁹ but counties where the incarcerated

¹⁸ For example, I know of 4,055 geographies (which are often but not always governments) that have a correctional population greater than zero but less than 100. Similarly, the population size of the districts will vary by the total population of the government and the number of districts that the population is to be distributed between. A facility of 200 people would be very important to a rural Wisconsin district of 1,000 people; but that same facility would be less important to a Los Angeles City Council district of 250,000.

¹⁹ Complaint at ¶ 3.

population would make up as little as 2.6% of a district still decided to avoid prison gerrymandering.²⁰

These 98 places, including Florida's Madison and Okeechobee Counties are, in order of declining impact:

Madison County, Florida (37.6%)
 Avoyelles Parish, Louisiana (37.1%)
 East Moline city, Illinois (36.8%)
 Hot Spring County, Arkansas (36.5%)
 McCreary County, Kentucky (36.2%)
 Greer County, Oklahoma (36.2%)
 Hillsboro city, Missouri (36.0%)
 Clinton County, New York (35.6%)
 Pecos County, Texas (35.1%)
 Kinney County, Texas (34.1%)
 Tuolumne County, California (33.5%)
 Live Oak County, Texas (33.5%)
 Tyler County, Texas (33.2%)
 Haskell County, Texas (33.0%)
 Terre Haute city, Indiana (32.2%)
 SAD40, Maine (32.2%)
 Caldwell Parish, Louisiana (31.9%)
 Tattnall County, Georgia (31.4%)
 Adams County, Mississippi (30.6%)
 Scurry County, Texas (30.6%)
 Crawford County, Illinois (30.5%)
 Branch County, Michigan (30.2%)
 Town of Enfield, Connecticut (30.2%)
 Washington County, Georgia (29.0%)
 Swisher County, Texas (29.0%)
 Lee County, Virginia (29.0%)
 Cayuga County, New York (28.0%)
 DeWitt County, Texas (27.7%)
 Freestone County, Texas (27.0%)
 Terry County, Texas (27.0%)
 Crown Point city, Indiana (26.0%)
 Claxton city, Georgia (25.7%)
 Madera County, California (25.6%)

²⁰ For each local government known to have avoided prison gerrymandering as of July 19, 2013, we calculated what the vote dilution would have been had the prison — or a cluster of adjacent prisons — been included in a single electoral district. This data, which does not include newer research, was collected for an eventual law review article. The Texas and Louisiana portion of this research was previewed in an article I wrote entitled “Avoiding prison gerrymandering is often a matter of common sense: Texas and Louisiana research” available at <http://www.prisonersofthecensus.org/news/2013/12/06/scatterplot/> and which was featured in an article by Jonathan Tilove, “Prisoners can’t vote, but they can subtly shift political power” in the *Austin American-Statesman*, on November 30, 2013.

Jacksonville city, Illinois (25.6%)
Oneida County, New York (25.5%)
Lee County, Illinois (25.0%)
Prince George County, Virginia (25.0%)
Genesee County, New York (24.9%)
Escambia County, Alabama (24.7%)
Fannin County, Texas (24.0%)
Richland Parish, Louisiana (23.9%)
Liberty County, Texas (23.7%)
Cañon city, Colorado (23.5%)
Caswell County, North Carolina (23.3%)
Clayton city, Missouri (22.9%)
Golden city, Colorado (22.3%)
Hale County, Texas (21.4%)
Okeechobee County, Florida (21.3%)
Pike County, Missouri (21.1%)
Lawton city, Oklahoma (20.6%)
Town of Cheshire, Connecticut (20.4%)
Stephens County, Texas (20.2%)
Marion County, Kentucky (19.8%)
Woods County, Oklahoma (19.8%)
Gray city, Georgia (19.2%)
Rock Island County, Illinois (19.0%)
Rusk County, Texas (19.0%)
Orleans County, New York (18.4%)
Columbus County, North Carolina (17.7%)
Baraboo city, Wisconsin (17.7%)
Duval County, Texas (17.5%)
Potter County, Texas (17.5%)
Dutchess County, New York (17.3%)
Essex County, New York (17.1%)
Fulton County, Illinois (16.7%)
St. Lawrence County, New York (16.4%)
Medina County, Texas (16.4%)
West Carroll Parish, Louisiana (16.3%)
Evangeline Parish, Louisiana (15.5%)
Brighton city, Colorado (15.5%)
Christian County, Illinois (13.8%)
Randolph County, Missouri (13.5%)
Baltimore city, Maryland (13.2%)
Imperial County, California (12.9%)
San Luis Obispo County, California (12.8%)
Livingston County, Illinois (12.8%)
Wichita County, Texas (12.7%)
Leavenworth County, Kansas (12.4%)
Monterey County, California (12.1%)
Vigo County, Indiana (12.1%)
Saginaw County, Michigan (11.0%)
Bowie County, Texas (11.0%)
Cherokee County, Texas (11.0%)
Moundsville city, West Virginia (10.8%)
St. Charles city, Illinois (9.8%)

Camden city, New Jersey (9.4%)
Cole County, Missouri (9.2%)
Kern County, California (8.1%)
Bastrop County, Texas (8.0%)
Brazoria County, Texas (8.0%)
Burnet County, Texas (8.0%)
Casey County, Kentucky (7.8%)
Bryan city, Texas (7.0%)
Will County, Illinois (6.1%)
Centennial city, Colorado (4.5%)
Brown County, Texas (4.4%)
Westchester County, New York (3.1%)
Victoria city, Texas (2.6%)

Conclusion

It is both easy and common for a county or other local government body with a substantial prison population to adjust the Census Bureau's prison counts prior to redistricting. In the case of Jefferson County it is as simple as changing the population of two blocks to zero for all demographics.

Statement of compensation

My standard hourly rate for preparing expert reports is \$130. My standard hourly rate for testifying is \$250. For research and presentation assistance, my two colleagues, Aleks Kajstura, JD, and Bernadette Rabuy, are paid at \$80/hr and \$40/hr, respectively.

I have not yet determined what exhibits, if any, I will rely on at trial to support my conclusions, but I will provide that list at a future date.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury that the above statements are true and correct to the best of my knowledge, information, and belief.



Peter Wagner
Executive Director
Prison Policy Initiative

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June 4, 2015

**Open Society Institute
Soros Justice Fellow**

**Cincinnati, OH; Northampton, MA
June 2003 – May 2005**

Received competitive fellowship with two years of funding to develop 2002 Prison Policy Initiative report, *Importing Constituents: Prisoners and Political Clout in New York*, into a national movement to end prison gerrymandering. Wrote in-depth reports about the problem of prison gerrymandering in eight additional states, and developed a strategy that would eventually transform the reform effort into a strong urban and rural coalition. Developed a website, <http://www.prisonersofthecensus.org>, that Professor Pam Karlan called “a treasure trove of information about the interaction of incarceration and political representation” (56 Stanford L. Rev. 1147, 1159 n.67 (2004)) and developed and implemented a successful national media strategy. Won *The New York Times* editorial board’s support for national and state-level prison gerrymandering reform.

**Center for First Amendment Rights
Webmaster**

**Hartford, CT
December 2000 – May 2003**

On a part-time basis while in law school, managed website and databases for non-profit that ran innovative educational programs about the First Amendment for middle and high school students and an annual symposium for adults.

**Law Clerk
Magistrate Judge Kenneth P. Neiman**

**Springfield, MA
January – May 2003**

**Anti-Discrimination Clinic
Student Attorney**

**Springfield, MA
August 2002 – December 2002**

Represented victims of employment discrimination and public accommodations discrimination in proceedings before the Massachusetts Commission Against Discrimination. Negotiated a positive settlement with a major retailer for one client denied credit on account of her ethnicity, and persuaded a public institution to finally pay a five-figure judgment for refusing to promote an employee on the basis of his ethnicity.

**Capital Defender Office
Legal Intern**

**Albany, NY
June 2002 – August 2002**

Performed legal research on the constitutionality of a jury “life qualification” statute. Digitized and organized mitigation evidence for defense team.

**Massachusetts Correctional Legal Services
Legal Intern**

**Boston, MA
May 2001 – October 2001**

Investigated prisoner complaints of poor medical care; conducted medical advocacy and prepared a referral to outside attorneys for medical malpractice failure-to-treat litigation that was eventually successfully settled. Investigated a major disturbance at a super-maximum facility and represented the alleged ring-leader against 54 charges including murder at his disciplinary hearing and on administrative appeal.

**CONSULTING
EXPERIENCE****ACLU of Michigan
Geographic expert****Grand Rapids, MI
November 2011 – March 2015**

Serve as an expert witness in *John Doe #1, et. al. vs. Richard Synder, et. al.* a case challenging a state law that severely restricts where people on the sex offender registry may live, work and “loiter”. Prepare two expert reports with more than a dozen maps and illustrations and testify at deposition.

**McGuire & Associates LLC
Geographic expert****Montgomery, AL
September 2013 – February 2015**

Serve as an expert witness in *McGuire vs. City of Montgomery, et. al.* a case challenging a state law that dramatically restricts where people on the sex offender registry may live and work. Use county property data, state and county school data, state day care data, the state voter file and employment data from the U.S. Census to determine the practical impact of the law in two expert reports, deposition testimony and trial testimony.

**Civil Liberties Union of Massachusetts
Geographic expert****Boston, MA
June 2009 – July 2014**

Assist litigators with evaluating potential challenges to overly broad city ordinances in Barnstable, Lynn and Waltham that effectively bar people on the registry from living anywhere in those jurisdictions. Submit an expert report on behalf of plaintiffs against the City of Lynn.

**Faegre Baker Daniels LLP
Geographic expert****Denver, CO
January 2013 – July 2013**

Serve as an expert witness in *Ryals v. Englewood*, a successful case challenging a city ordinance banning certain people on the sex offender registry from almost anywhere in the city of Englewood. Made a map of the city’s exclusion zones and calculated that, as Judge R. Brooke Jackson ruled, the ordinance “leaves essentially no place for offenders to live” and pushes sex offenders into neighboring cities.

**Southern Center for Human Rights
Geographic expert****Atlanta, GA
June 2006 – September 2009**

Prepared maps and analysis, and testified twice for plaintiffs in federal court in the case *Whitaker v. Perdue*. The case challenged Georgia’s ban on people on the sex offender registry from living within 1,000 feet of schools, churches and a long list of other places including school bus stops. Submitted testimony showing that almost every tract of habitable housing in Georgia was served by one of 350,000 school bus stops, meaning that the legislature unwittingly declared all urban areas, all suburban areas and most rural areas off limits to people on the registry. The legislature has now largely rolled back the law.

Open Society Institute Fellowship Program
Research and strategy consultant

New York City
January – June 2007

Assist current and past Soros Justice Fellows with a range of research and technical support needs, including combing databases, developing educational materials and using quantitative research to tell stories and illustrate problems to diverse audiences that may or may not have experience with the criminal justice system. (This mentorship work now continues in a volunteer capacity.)

TEACHING
EXPERIENCE

Smith College
Instructor

Northampton, MA
January 2002 – 2006, 2008, 2011 – 2012

Designed and taught “Constitutional Law Through Film” or “Prison Industrial Complex Through Film” non-credit courses to undergraduates during January terms.

OTHER
PROFESSIONAL
EXPERIENCE

Harpers Ferry Software
Chief Technical Officer

West Hartford, CT
2012 – Present

Co-founded software company to produce an iPad and iPhone app called “Back to Sleep” that empowers pre-literate children to understand the passage of time in the morning.

HONORS
& AWARDS

Recipient, David Carliner Public Interest Award, American Constitution Society, 2014
 Recipient, Champion of State Criminal Justice Reform Award, National Association of Criminal Defense Lawyers, 2013
 Finalist, Maria Leavey Tribute Award, Campaign for America’s Future, 2012
 Recipient, Soros Justice Postgraduate Fellowship, 2003 – 2005
 Recipient, Law Alumni Scholarship, Fall 2002
 Recipient, Katherine M. Connell Scholarship, Fall 2001
 Recipient, Massachusetts Bar Foundation Legal Intern Fellowship, Summer 2001

PUBLISHED
REPORTS
(SELECTED,
BY TOPIC)

Prison gerrymandering

Imported “Constituents”: Incarcerated People And Political Clout In Connecticut, Prison Policy Initiative and Common Cause Connecticut, April 2013
<http://www.prisonersofthecensus.org/ct/>

Preventing Prison-Based Gerrymandering in Redistricting: What to Watch For, with Brenda Wright, Prison Policy Initiative and Dēmos, February 2011
<http://www.prisonersofthecensus.org/news/2011/02/23/preventing/>

Importing Constituents: Incarcerated People and Political Clout in California, with Aleks Kajstura, Prison Policy Initiative, March 2010
<http://www.prisonersofthecensus.org/ca/report.html>

Fixing prison-based gerrymandering after the 2010 Census: A 50 state guide, with Aleks Kajstura, Elena Lavarreda, Christian de Ocejó, and Sheila Vennell O’Rourke, Prison Policy Initiative, March 2010
<http://www.prisonersofthecensus.org/50states/>

Importing Constituents: Incarcerated People and Political Clout in Maryland, with Olivia Cummings, Prison Policy Initiative, March 2010
<http://www.prisonersofthecensus.org/md/report.html>

Phantom constituents in the Empire State: How outdated Census Bureau methodology burdens New York counties, with Meghan Rudy, Ellie Happel and Will Goldberg, Prison Policy Initiative, July 2007

<http://www.prisonersofthecensus.org/nycounties/>

Democracy Toolkit: Interactive tools to help rural citizens determine if prison populations in legislative districts are diluting their right to equal representation, Prison Policy Initiative, April 2007

<http://www.prisonersofthecensus.org/toolkit/>

Why the Census Bureau can and must start collecting the home addresses of incarcerated people, with Eric Lotke and Andrew Beveridge, Prison Policy Initiative, February 2006

<http://www.prisonpolicy.org/homeaddresses/>

Brief Amici Curiae In Support Of Plaintiff-Appellant Jalil Abdul Muntaqim, a/k/a/ Anthony Bottom, Urging Reversal Of The District Court, with Brenda Wright, Prison Policy Initiative and National Voting Rights Institute, January 2005

<http://www.prisonpolicy.org/reports/muntaqim.html>

Too big to ignore: How counting people in prisons distorted Census 2000, with Rose Heyer, Prison Policy Initiative, April 2004

<http://www.prisonersofthecensus.org/toobig/>

Importing Constituents: Prisoners and Political Clout in New York, Prison Policy Initiative, April 2002

<http://www.prisonpolicy.org/importing/>

Prison and jail telephone industry

Please Deposit All of Your Money: Kickbacks, Rates, and Hidden Fees in the Jail Phone

Industry, with Drew Kukorowski and Leah Sakala, Prison Policy Initiative, May 2013

<http://www.prisonpolicy.org/phones/>

Sentencing enhancement zones

Reaching too far, coming up short: How large sentencing enhancement zones miss the mark, with Aleks Kajstura and Leah Sakala, Prison Policy Initiative, January, 2009

<http://www.prisonpolicy.org/toofar/>

The Geography of Punishment: How Huge Sentencing Enhancement Zones Harm Communities, Fail to Protect Children, with Aleks Kajstura and William Goldberg, Prison Policy Initiative, July 2008

<http://www.prisonpolicy.org/zones/>

Other criminal justice publications

Mass Incarceration: The Whole Pie, with Leah Sakala, Prison Policy Initiative, March 2014

<http://www.prisonpolicy.org/reports/pie.html>

The Prison Index: Taking the Pulse of the Crime Control Industry,
Prison Policy Initiative and Western Prison Project, April 2003
<http://www.prisonpolicy.org/prisonindex/toc.html>

- BOOK CHAPTERS** “Prison Gerrymandering in the 2012 Election,” with Leah Sakala, in *Atlas of the 2012 Election*, Gerald R. Webster and Fred Shelly eds. Rowman & Littlefield Publishers (forthcoming 2014).
- Prisons, Politics and the Census, with Gary Hunter, in *Prison Profiteers: Who Makes Money from Mass Incarceration*, edited by Tara Herivel and Paul Wright, The New Press (2008)
- Skewing Democracy: Where the Census Counts Prisoners, in *The Emerging Agenda: Poverty and Race in America*, edited by Chester Hartman, Lexington Books (2006)
- EDITED ARTICLES** Breaking the Census: Redistricting in an era of mass incarceration, *William Mitchell Law Review*, Spring 2012
- Prison Populations Create Complications at Redistricting Time, *Missouri Municipal Review*, January 2012
- Prisoners of the Census: Electoral and Financial Consequences of Counting Prisoners Where They Go, Not Where They Come From, with Eric Lotke, *Pace Law Review*, Volume 24, Number 2 (Spring 2004)
- MEDIA APPEARANCES (SELECT)** *New York Times* (including the editorial page and “The Haggler” column), *Washington Post*, *Providence Journal*, *Pittsburgh Post-Gazette*, *Albany Times-Union*, *Los Angeles Times*, *Russia Today*, *Boston Globe*, NAACP’s *Crisis Magazine*, and *The Economist*.
- FILM APPEARANCES** *Gerrymandering*, directed by Jeff Reichert, Green Film Company (2010)
- PRESENTATIONS (SELECT)** Clason Lecture: *Overdosing on Prisons: Tackling the Side Effects of the United States’ Globally Unprecedented Use of the Prison*, Western New England University School of Law, (Springfield, Mass.) Feb 10, 2014
- Presentation: *Fees and Commissions in the Prison Telephone Industry*, Federal Communications Commission, (Washington, D.C.) July 10, 2013.
- Keynote address: *Prison Branches: The Untapped Resource*, 101st NAACP Convention Adjunct Event, Crossroads Correctional Center, (Cameron, MO) July 11, 2010
- Presentation: *Prisons, Redistricting, and the Census: New Options for States and Localities*, Congressional briefing, Rayburn Congressional Office Building, (Washington, D.C.) April 27, 2010
- Panelist: *Census and Redistricting*, NAACP Continuing Legal Education Seminar, 100th NAACP Convention, (New York City) July 13, 2009

Panelist: *Technical solutions to avoid prison-based gerrymandering*, National Conference of State Legislatures's Legislative Summit, (Philadelphia, PA) July 21, 2009

Workshop: *Legislative options to avoid prison-based gerrymandering*, Legislative Black Caucus of Maryland, (Annapolis, MD) October 2, 2009

Keynote address: *The U.S. Prison System: Community and Political Impacts*, Brown University (Providence, RI) December 3, 2005

Keynote address: *Coming Home: Addressing the Issues Faced by Prisoners as They Re-enter the Community*, Community Service Society of New York (New York City) December 10, 2005

Panel presentation: *Prisoners of the Census: Criminal Justice Populations in Census Data*, Crime Mapping Research Conference, National Institute of Justice (Savannah, GA), September 9, 2005

Panel presentation: *Protecting and expanding voting rights*, NAACP Continuing Legal Education Seminar, NAACP Convention (Milwaukee, WI) July 11, 2005

Presentation: *Changing how prisoners are counted in the Census*, presentation to the Residence Rules in the Decennial Census Panel at the National Academy of Sciences (Washington, D.C.) June 2, 2005

Presentation: *Prisoners, the Census and the Political Geography of Mass Incarceration*, Prisons 2004: Prisons and Penal Policy: International Perspectives (City University London, England) June 25, 2004

Panel presentation: *Prisoners and Redistricting. Accuracy Counts: Incarcerated People & the Census* Congressional Briefing (Washington, D.C.) April 14, 2004

Panel presentation: *Prisoners and the Census*, History's Scorecard: The Role of the Census Bureau in America's Development, Census Bureau (Washington D.C.) March 5, 2004

Panel presentation: *Felon Disenfranchisement: Black Codes in the 21st Century*, Africana Studies Against Criminal Injustice Conference (New York City) April 11, 2003

Keynote address: *Unlocking Prisons: Re-Thinking the Crisis, Creating a Network for Action Conference*, Harvard University (Cambridge, MA) April 27, 2002

**LEGISLATIVE
TESTIMONY
(SELECT)**

Testimony in support of SB400, the "No Representation Without Population Act" before the Education, Health & Environmental Affairs Committee of the Maryland State Senate (Annapolis, MD) March 4, 2010

Testimony on the 2010 Census: Enumerating People Living in Group Quarters, before the Subcommittee on Information Policy, Census and National Archives, Committee on Oversight and Government Reform, United States House of Representatives (New York, NY) February 22, 2010

Testimony on Adjusting Prisoner Census Enumeration for Purposes of State Legislative Redistricting, New York State Legislative Task Force on Demographic Research and Reapportionment (Bronx, NY) March 14, 2002

**COURT CASES
(AS CO-COUNSEL,
SELECT)**

Davidson v. City of Cranston (1:14-cv-00091 (D.R.I. 2014)) representing voters and the ACLU of Rhode Island in affirmative litigation against a city for diluting the votes of its own residents by engaging in prison gerrymandering

Fletcher v. Lamone, (831 F. Supp. 2d 887 (D. Md. 2011), aff'd, 133 S. Ct. 29 (2012)) representing civil rights groups in an amicus brief before a three judge panel successfully defending Maryland's law ending prison gerrymandering. The panel noted that the No Representation Without Population Act was an important Maryland civil rights victory: "As the amicus brief ... makes clear, the Act was the product of years of work by groups dedicated to advancing the interests of minorities." The U.S. Supreme Court summarily affirmed the lower court's ruling in June 2012.

Little v. LATFOR (New York Docket No. 2310-2011) representing intervener defendants to successfully defend New York's law ending prison gerrymandering. The New York State Supreme Court Judge who rejected all of the plaintiffs claims repeatedly cited our arguments in his December 2011 decision. Plaintiffs abandoned their appeals in March 2012, allowing New York State's landmark civil rights law to stand.

**PROFESSIONAL
ASSOCIATIONS**

Member of Massachusetts Bar, BBO# 662207
Admitted to practice in the District of Massachusetts

SKILLS

Using data to tell compelling stories about social justice issues.

Fluent in the data products and systems for accessing data from the U.S. Census Bureau and the various entities in the U.S. criminal justice system.

Experienced making maps and analyzing demographic and spatial data.

Comfortable writing code in HTML, CSS, PHP, and PERL.