

Testimony Of Susan Lerner
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Before the
New York City Council Committees on Civil Rights and on Immigration
Regarding Joint Public Hearing on Census Issues
November 20, 2009

Good afternoon. I am Susan Lerner, Executive Director of Common Cause/New York. Common Cause/New York is a nonpartisan citizens' lobby and a leading force in the battle for honest and accountable government. Common Cause fights to strengthen public participation and faith in our institutions of self-government and to ensure that government and political processes serve the general interest, and not simply the special interests. For more than 30 years, we have worked at both the state and municipal level to bring about honest, open and accountable government. Consonant with our overall mission we have consistently worked for election reform advocacy, working to improve accessibility, accuracy, transparency, and verifiability in our democratic process at the city, state and national level.

Common Cause's support for **Res 0190-2006** (Resolution calling on the New York State Legislature to amend the Election Law so that prisoners are counted as residents of the county in which they reside prior to incarceration, rather than as residents of the county in which they are detained), and **Res 2261-2009** (a Resolution calling upon the United States Census Bureau to enforce a decennial census enumeration policy in which incarcerated juveniles and adults are counted in keeping with the "one person, one vote" principle inherent in the Fourteenth Amendment of the Constitution, to insure that resources for the general welfare of all citizens are equitably and appropriately distributed.) and the oversight impetus behind **T2009-1757** (Ensuring that New York City's Hard to Count Populations Are Identified and Encouraged to Participate in the 2010 Census), flows directly from our long-standing work to insure that our elections are accurate and fair, and that our government is open and accountable.

While the language in Art. I, Sec. 2, Cl.3 can be seen as presenting some, albeit slight, support for divergent interpretations regarding census requirements, Sec .2 of the Fourteenth Amendment is straightforward, we believe, and requires that all persons living within the United States be counted in the census. Because of the number of government determinations which are dependent on the census count, not simply elective apportionment, an accurate count is essential. We cannot have honest, open and accountable government if the basis on which our legislatures are apportioned and essential services, such as public health resources, are allocated on a deliberately inaccurate basis. Accordingly, we regard all three of these measures as serving the same important goal: a census count that accurately reflects the population of these United States where people actually make their permanent home, in order to foster open, honest and accountable government.

Obtaining an accurate count in a city the size and density of New York City presents a tremendous challenge to the U.S. Census. Accordingly, Common Cause/NY believes that anything that the City can do to encourage its residents to be counted is worthwhile, leading us to strongly support **Executive**

Order 127 of 2009 . We applaud the Committee's action to hold oversight hearings to determine what the City is doing to operationalize the laudable goals of the Executive Order.

Common Cause/NY strongly support efforts at all levels of government to insure that those who are incarcerated are accurately counted at their permanent home of record, and not at the prison where they temporarily and involuntarily are found. There are too many examples from around the state and around the country of the way in which counting the incarcerated for census purposes at the location of their imprisonment distorts any accurate population count and leads to absurd electoral situations such as the rural town in another state where a City Council district is composed of hundreds of people on paper – the prison population – but only 2 people who can actually vote in the City Council election. This story – the city is in Iowa, by the way, as reported by the NY Times last year – illustrates an important point. Insuring an accurate count has important consequences not only for the areas where the incarcerated make their permanent homes, but for the often rural areas where they serve their time. The result of failing to count those imprisoned at their place of permanent home is rank gerrymandering of the most obvious sort, and as you know, we have been vocal opponents of gerrymandering for decades. We applaud the proponents of these resolutions for identifying the important long term civil rights consequences of the Census Bureau's short-sighted policies .For these reasons, Common Cause/NY has actively supported the bills before the Legislature which would require reallocation of those incarcerated so that they are counted where they permanently make their homes and not where they are incarcerated. We believe that **Res 0190-2006** considered today, if passed, would assist the Legislature in evaluating and, we hope, passing, such bills. Common Cause/NY supports both Resolutions, **Res 0190-2006 and Res 2261-2009**. We believe that it is important for the City to make its support known on this important issue and we applaud your actions in conducting this hearing and fostering further public examination and discussion of this important issue.